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ALBERTA  
ENVIRONMENTAL APPEAL BOARD  
DECISION

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Date of Decision - November 28, 1997

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

**-and-**

**IN THE MATTER OF** appeals filed by Mr. Bill Lucey, Confederation of Regions Political Party (Federal) with respect to Application No.'s 1010333, 1010453 and 1010793 being processed by the Alberta Energy and Utilities Board for Rio Alto Exploration Ltd., Renaissance Energy Ltd. and ProGas Limited for gas removal.

Cite as: Lucey v. Alberta Energy and Utilities Board #2, 3 and 4, re: Rio Alto Exploration Ltd., Renaissance Energy Ltd. and ProGas Limited.

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## BACKGROUND

[1] On November 5, 1997, Mr. Bill Lucey, Leader of the Confederation of Regions Political Party (Federal) [CORE], filed a Notice of Appeal with the Environmental Appeal Board [Board] dated October 28, 1997. Mr. Lucey objected to Application No.'s 1010333, 1010453 and 1010793 being processed by the Alberta Energy and Utilities Board [AEUB] for Rio Alto Exploration Ltd., Renaissance Energy Ltd., and ProGas Limited for gas removal from Alberta. Mr. Lucey's Notice of Appeal contained the following information:

“Please accept this letter as our, Notice of Appeal for app. no. 1010333 (Rio), 1010453 (Renaissance) and no. 1010793 (Pro Gas)

We “Core”, demand a two year halt on these applications so that we might.

- (1) do our own research on, “Green House Emmissions [sic],” due to these applications, both upstream and down.
- (2) campaign to have electric motors installed on all compressors that compress this natural gas, to eliminate “CO<sub>2</sub>” emmissions [sic] at compressor sites.
- (3) contact the Dept. of the Envioment [sic] in Washington DC, U.S.A in regards to “Green House Emmissions [sic]”, these export applications will cause.
- (4) contact Envioment [sic] Canada in Ottawa on their allowed, “Green-House” Gas limits.”

[2] The Board acknowledged Mr. Lucey's appeals in letters dated November 6, 1997, and requested the Department of Environmental Protection [Department] to provide copies of all related correspondence, documents and materials.

[3] On November 12, 1997, the Board received letters from Mr. Sprague of the Environmental Law Section, Alberta Justice. The letters stated:

- “a) The document sent to the Board does not contain grounds for the appeal nor description of any relief which is within the mandate of the Board, contrary to section 5 of the Environmental Appeal Board Regulation and section 5 of the Board’s Rules of Practice.
- b) The decision Mr. Lucey appeals from is that of the Energy and Utilities Board. No decision made by a Director of Alberta Environmental Protection is being appealed. I have confirmed with the Manager of the Regulatory Approvals Centre that no application for an approval with respect to this matter has been received by Alberta Environmental Protection. I enclose a copy of his memorandum for your information.<sup>1</sup>

Consequently, I submit that the Environmental Appeal Board has no jurisdiction pursuant to section 84 of the *Environmental Protection and Enhancement Act* to deal with this matter. I therefore request that the Environmental Appeal Board dismiss this document and this appeal for want of jurisdiction.”

[4] On November 18, 1997, the Board sent a letter to Mr. Lucey requesting that he provide the Board with responses to the issues raised in the Department’s letters.

[5] On November 20, 1997, Mr. Lucey responded as follows:

“We, “Core”, have been very discouraged by the condescending [sic] attitude of the lawyers in “Alberta Justice” and the lawyers of the law dept. of the applicants, (energy companys)[sic]. (comments contained as attachments to your letter of Nov. 18/97).

It seems to us from a “laymens” [sic], point of view that every time some item of “concern”, comes up they, (the lawyers mostly) quote from (Exhib [sic] A) page three attached. This (exhibit A) is becomeing [sic] very famous on local, “TV” and newspaper reports in Alberta.

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<sup>1</sup> Memorandums from Dennis Eriksen, Manager, Regulatory Approvals Centre, Alberta Environmental Protection, to Mr. Grant Sprague, Environmental Law Section, dated November 12, 1997 states:

“The Environmental Appeal Board has requested copies of all related documents pertaining to the Gas Removal Scheme.

The Department has no involvement in applications for gas removal and therefore have no documents to forward.”

For variety we, “Core”, would suggest these Alberta lawyers quote some of their other one-hundred thousand Alberta made laws, that they have asked for over the years. (Albertans are the most regulated people on “Earth”).

During the process of these applications, we “Core”, have asked for “mediation, which is our legal democratic wright [sic], only to be told by “mainly” lawyers, “Core” is unreasonable in their demands and mediation would be a waste of time. (lawyers love to bill clients at hundreds of dollars per hour). and accomplish nothing.

We, “Core”, would like to caution, that if we cannot obtain mediation on these applications and this letter is rejected, That [sic] by the serious nature of these applications to our Environment [sic], and by the fact that we feel that the political-envionmental [sic], “winds of change” are blowing in Alberta. We “Core”, will in the next two weeks be asking for funding and legal defence [sic] lawyers from the Govt [sic] of Alberta.

So that we might ask the Chief Justice of the Appeals Court of Alberta, that we might “take leave”, of these application with your departments of the Govt [sic] of Alberta, and have these applications heard in different levels of our, \*Canadian Court Systems, starting at the Appeals Court of Alberta.

In closing, we “Core”, would like to note that if these applications cannot be resolved now, we see grave financial harm to the “Alta” economy, as these applications “work there [sic] way through” Canadian Courts for years to come, layoffs, bankruptsys [sic], ...”

[6] Mr. Lucey has filed a number of similar notices of appeal with respect to decisions made by the AEUB where, as here, there has also been no application for an approval with respect to these matters received by the Department. In dealing with Mr. Lucey’s appeals of these matters, the Board received on November 10, 1997, by carbon copy, a letter dated November 6, 1997, from the AEUB to Mr. Lucey stating:

“Your “Notice of Appeal” ... addressed to the Alberta Environmental Appeal Board, has been passed to me for response. Your application for appeal should be made to the Court of Appeal of Alberta. Section 20 of the *Alberta Energy and Utilities Board Act* provides for an appeal of an EUB decision on any question of law or jurisdiction provided leave is first obtained from the Court.”<sup>2</sup>

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<sup>2</sup>

Alberta Environmental Appeal Board Decision 97-041.

## **DECISION OF THE BOARD**

[7]           The Board agrees with the Department and with the AEUB that it does not have jurisdiction to proceed with these appeals.

## **CONCLUSION**

[8]           These appeals are, therefore, dismissed.

Dated on November 28, 1997 at Edmonton, Alberta.

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Dr. William A. Tilleman