ALBERTA
ENVIRONMENTAL APPEAL BOARD

DECISION

Date of Decision - December 1, 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 an appeal filed by Mr. Bill Lucey, Confederation of Regions Political Party (Federal) with respect to Application No. 1009362 issued by the Alberta Energy and Utilities Board to Canadian Natural Resources Limited for gas removal in Alberta.

Cite as: Lucey v. Alberta Energy and Utilities Board #5, re: Canadian Natural Resources Limited.

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BACKGROUND

[1] On November 7, 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 November 1, 1997. Mr. Lucey objected to Application No. 1009362 granted to Canadian Natural Resources Limited by the Alberta Energy and Utilities Board [AEUB], authorizing the removal of gas from Alberta. Mr. Lucey's Notice of Appeal contained the following information:

> "Please accept this letter as our, "Notice of Appeal," for app. no. 1009362, ("Canadian Natural," [sic].
>
> We "Core", demand a two year halt on THIS [sic] application so that we might.
>
> (1) do our own research on, "Green House Emmissions [sic]," due to this application, both "upstream and down."
>
> (2) campaign to have electric (wind powered) motors installed on all compressors that compress this natural gas, to to [sic] eliminate, "CO2", emmissions [sic] at compressor sites and gas plants.
>
> (3) contact the Dept of the Envionment [sic] in Washington D.C, U.S.A, in regards to, "Green House Emmissions [sic], this export application will cause.
>
> (4) contact Envionment [sic] Canada in Ottawa on their allowed, "Green House", limits"

[2] The Board acknowledged Mr. Lucey's appeal in a letter dated November 7, 1997, and requested the Department of Environmental Protection [Department] provide copies of all related correspondence, documents and materials.

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

> "a) The document sent to the Board does not contain the 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.[1]

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 letter.

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

"We, "Core", have been very discouraged by the condecending [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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[1] Memorandum from Mr. 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 Envionment [sic], and by the fact 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 applications 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 closeing [sic], 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."[2]

DECISION OF THE BOARD

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

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[2] Alberta Environmental Appeal Board Decision, Appeal No. 97-041, Lucey v. Alberta Energy and Utilities Board #1, re: Syncrude Canada Ltd., November 27, 1997.

[8] The Board continues to be troubled by the unhelpful manner in which Mr. Lucey continues to set forth his notices of objection and responses to the Board's requests for further information. The Board has stated in regard to an earlier appeal by Mr. Lucey:[3]

> "The Board responds to each notice of objection in a serious manner, and requests further information from individuals to assist the Board in determining whether or not the Board has jurisdiction to deal with the decision in issue. The Board has become increasingly concerned by the universality and inexactitude of Mr. Lucey's responses. In this appeal, as in his previous Appeal No. 97-037, his responses were characterized by vagueness that infer generalities, making it impossible for the Board to draw the necessary causal link with Petro Canada's approval. The many notices of objections filed by Mr. Lucey have related to a variety of illimitable matters and none have raised environmental grounds specifically related to the decisions Mr. Lucey has sought to appeal. Despite the Board's written requests to Mr. Lucey for more specific information ..., Mr. Lucey has consistently failed to provide the Board with adequate factual information... . The Board concludes that, while Mr. Lucey has returned answers to the Board's request for additional information, the miscellaneousness with which he writes precludes true feedback contemplated by section 85 of the Act."

[9] The Board has made special efforts to assist Mr. Lucey in providing the Board with further factual information that would enable the Board to understand the grounds, if any, of his various notices of objection. Mr. Lucey's consistent failure to provide the Board with adequate factual information, suggests to the Board that its requests for further information from Mr. Lucey are unhelpful, unproductive and very possibly a waste of valuable Board resources.

CONCLUSION

[10] This appeal is, therefore, dismissed.

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[3] Alberta Environmental Appeal Board Decision, Appeal No. 97-040, Lucey #3 v. Acting Director of Land Reclamation, Alberta Environmental Protection, November 20, 1997.

Dated on December 1, 1997 at Edmonton, Alberta.

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Dr. William A. Tilleman