
ALBERTA
ENVIRONMENTAL APPEAL BOARD
DECISION

Date of Decision - December 1, 1997

IN THE MATTER OF Sections 84 and 87 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 the Alberta Energy and Utilities Board Decision U97130 dated October 31, 1997 for Canadian Western Gas Company.

Cite as: Lucey v. Alberta Energy and Utilities Board #6, re: Canadian Western Gas Company.

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BACKGROUND

[1] On November 12, 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). Mr. Lucey objected to decision U97130 granted to Canadian Western Gas Company by the Alberta Energy and Utilities Board [AEUB] on October 31, 1997. Mr. Lucey's Notice of Appeal contained the following information:

"Please accept this letter as our, "Cores", Notice of Appeal to Board Decision no. U97130 - OCT. 31/97.

We "Core" demand a two year delay on this decision so that we might.

- (1) do our own research on this project once again
- (2) have gas rates raised by 20% to help Canadian Western to rework their operations for "green house gas" reduction.
- (3) have extra cash to pay their suppliers of natural gas to cushion them, while they install wind powered, electric motors on all gas compressors ect [sic],
- (4) contact Consumer Groups to determine if "Canadian Western" natural gas is price [sic] properly."

[2] The Board acknowledged Mr. Lucey's appeal in a letter dated November 13, 1997, and requested the Department of Environmental Protection [Department] provide copies of all related correspondence, documents and materials.

[3] On November 20, 1997, the Board received a letter from Mr. Sprague of the Environmental Law Section, Alberta Justice. The letter stated:

"I note that Mr. Lucey's document purports to appeal "Board Decision U97130." From this, I assume Mr. Lucey refers to a decision of EUB. This does not appear to be a decision of a Director of Alberta Environmental Protection nor any other decision which is capable of appeal pursuant to section 84 of the *Environmental Protection and Enhancement Act*.

This is the ninth appeal filed by Mr. Lucey since 20 September, 1997 (see also EAB appeals 97-037, 97-040, 97-041, 97-042, 97-043, 97-044, 97-045, 97-046). This is the eighth appeal filed by Mr. Lucey with respect to decisions made by the Alberta Energy and Utilities Board.

In each of these appeals, Mr. Lucey has failed to comply with the Environmental Appeal Board's practice and legislation with respect to his Notice of Appeal.

Mr. Lucey in each appeal has failed to indicate how he is a person directly affected by any decision under appeal. In this [sic] past decisions of the Environmental Appeal Board, Mr. Lucey has never been found to be directly affected: EAB appeal Nos. 96-072, 97-003 and 97-033.

I submit that the continued filing of appeals by Mr. Lucey, in which he appeals matters beyond the jurisdiction of this Board and which do not directly affect him, is an abuse of the EAB's process. Such appeals are frivolous, vexatious and without merit.

The continual submission of appeals by Mr. Lucey requires a significant response from Alberta Environmental Protection in terms of time and resources. As you know, this Department must reply to the Board's directions for information regarding each appeal. This review and collection of material is, in many cases, an extensive process.

In addition to the time expended by the Department, such appeals also wastefully consume valuable resources of the Environmental Appeal Board.

Mindful that the Environmental Appeal Board is master of its own processes and is authorized under section 87 of EPEA to deal with matters before it. I request that the Board:

- (a) dismiss this appeal (97-047) for want of jurisdiction;
- (b) direct that the Registrar of Appeals reject and return to Mr. Lucey any documents which he may receive from Mr. Lucey which do not on their face;
 - (i) refer to a decision within the scope of section 84 of the *Environmental Protection and Enhancement Act*.
 - (ii) disclose how Mr. Lucey is directly affected by

the decision in question, and

- (iii) demonstrate compliance with the rules and practice of the Environmental Appeal Board regarding the content of Notices of Appeal.”

[4] On November 24, 1997, the Board sent a letter to Mr. Lucey requesting that he provide the Board with responses to the specific issues raised in the Department’s letter.

[5] On November 25, 1997, Mr. Lucey responded as follows:

“We, “Core”, have been very discouraged by the condescending [sic] attitude of the lawyer 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. 25/97.). They always quote laws as exactly the way they think they are, not how possibly the laws could be. (For 100 years here in Alberta our lawyers have been searching for “truth and justice,” never finding it, at a great cost to our enconomy [sic].)

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 (Exhibit A), page three attached. This (exhibit A) is becomeing [sic] very famous on local, “TV.” and newspaper reports here in Alberta.

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 Appeal Court of Alberta.

In closing [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], social problems, ect [sic] here in Alberta.”

[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.”¹

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.

[8] As the Board stated in Mr. Lucey’s most recent appeal:²

“The Board continues to be troubled by the unhelpful manner in which Mr. Lucey

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

² Alberta Environmental Appeal Board Decision, Appeal No. 97-046, Lucey v. Alberta Energy and Utilities Board #5, re: Canadian Natural Resources Limited, December 1, 1997..

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."

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."

[9] The Board agrees with the Department that the continued filing of appeals by Mr. Lucey, in which he appeals matters clearly beyond the jurisdiction of this Board and which do not directly affect him, is an abuse of the Environmental Appeal Board's process. This is the ninth appeal filed by Mr. Lucey since September 20, 1997, and the eighth appeal filed by Mr. Lucey with respect to decisions made by the AEUB. In dealing with all appeals filed by Mr. Lucey, the Board has requested responses from him to assist the Board in determining whether the issues raised by his

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

notices of objection are within the jurisdiction of the Board. Mr. Lucey has consistently provided the Board with wholly inadequate responses. Mr. Lucey continues to file documents with the Board's office that fail to comply with the Environmental Appeal Board's practice and legislation with respect to notices of objection.

[10] For these reasons, the Board is placed in the unfortunate position of having to direct the Registrar of Appeals to reject and return to Mr. Lucey any documents, which the office may receive from Mr. Lucey which do not on their face:⁴

- (i) plausibly refer to a decision within the scope of section 84 of the *Environmental Protection and Enhancement Act*.
- (ii) disclose that Mr. Lucey is plausibly directly affected by the decision in question, and
- (iii) demonstrate compliance with the Rules of Practice of the Environmental Appeal Board regarding the content of Notices of Appeal.

CONCLUSION

[11] This appeal is dismissed with directions to the Registrar of Appeals.

⁴ Section 84(1) of the Act states, in part, that “[a] notice of objection *may be submitted to the Board by the following persons in the following circumstances*”[emphasis added]. The section sets forth the criteria for persons who may submit a notice of objection to the Board, and the circumstances under which a notice of objection may be submitted to the Board. Unless the notice of objection reveals that the person making it and that the circumstances surrounding its submission meet the criteria set forth in section 84(1), the notice of objection may not be submitted to the Board.

In addition, section 84(6) of the Act requires that “a notice of objection must contain the information and be made in the manner provided for in the regulations. Section 5 of the EAB Regulations, and section 5 of the Rules of Practice, set forth the information required in a notice of objection submitted pursuant to section 84, or pursuant to any enactment other than section 84 of the Act.

The Registrar of Appeals for the Environmental Appeal Board, similar to registrars for other tribunals and for the courts, can reject those notices of objection that fail to meet the basic criteria necessary for submission to the Board.

Dated on December 1, 1997 at Edmonton, Alberta.

Dr. William A. Tilleman