ALBERTA
ENVIRONMENTAL APPEAL BOARD

DECISION

Date of Decision: April 30, 1998

IN THE MATTER OF Section 84, 85, 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. Alan Iwaskow with respect to Approval No. 1635-01-00 issued by the Director of Air and Water Approvals Division, Alberta Environmental Protection to Talisman Energy Inc.

Cite as: Iwaskow v. Director of Air and Water Approvals Division, Alberta Environmental Protection, *re: Talisman Energy Inc.*

TABLE OF CONTENTS

BACKGROUND

[1] This appeal concerns an Approval issued to Talisman Energy Inc. [Talisman] for the operation and reclamation of the Teepee Creek sour gas processing plant. The plant, which was originally approved by the former Alberta Energy Resources Conservation Board in 1977,[1] is located 5.5 km west of the Village of Teepee Creek. The Approval was issued on December 22, 1997, by Mr. David Spink, Director of Air and Water Approvals, Alberta Environmental Protection [Director].

[2] On January 15, 1998, the Environmental Appeal Board [Board] received an un-dated letter from the Mr. Alan Iwaskow. The letter stated that it was "regarding" Talisman's "Application" for the Teepee Creek Plant Approval. The letter was not accompanied by the Board's standard Notice of Appeal form, nor was it titled "notice of appeal" or "appeal," and nor did it otherwise clearly indicate that it was intended to launch an appeal to the Board under Division 2, Part 3 of the *Alberta Environmental Protection and Enhancement Act* [the Act],[2] which provides for appeals to the Board of various decisions of the Department of the Environmental Protection [Department]. The letter did indicate that the Manager of the Regulatory Appeals Centre of Alberta Environmental Protection had "recently written" to Mr. Iwaskow "regarding appeals" and had apparently "asked [Iwaskow] to contact" the Board. The letter went on to summarize what appeared to be various air pollution concerns which it claimed Mr. Iwaskow had raised in a "statement of concern" submitted to the Director prior to his issuance of the Approval. Although that summary referred to several "requests," it was not at all clear what relief Mr. Iwaskow was actually requesting from the Board. The following is a summary of the relevant correspondence following the Board's receipt of this letter.

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1 *See* February 2, 1998 letter from Tania H. Donnelly of Alberta Energy and Utilities Board to the Board.

2 Chap. E-13.3, as amended.

[3] On January 15, 1998, the Board wrote Mr. Iwaskow a letter providing him with copies of several materials regarding the conduct of appeals, including the appeals provisions of the Act, the regulations governing appeals before the Board**,** and the Board's Rules of Practice.

[4] On January 26, 1998, the Director's counsel faxed the Board a letter requesting that the Board consider whether Mr. Iwaskow was "directly affected" by the Approval, for purposes of the standing requirement in section 84(1)(a)(v) of the Act.[3] Counsel stated that he was making this request based on his understanding that Mr. Iwaskow lived about 27 miles from the plant site, implying that he might not be affected by the plant's emissions from that distance. Counsel enclosed several documents related to the Director's issuance of the Approval but stated that the Director would not "search" for other relevant documents until the Board decided whether Mr. Iwaskow had standing to file the appeal.[4]

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3 As relevant here, that section provides that an appeal to the Board may be filed by "any person who is directly affected by the Director's decision. . . ."

4 January 26, 1998 letter from David Day of Alberta Justice to the Board.

[5] On February 9, 1998, the Board wrote Mr. Iwaskow a letter "seek[ing] additional information" before the Board decided how to respond to his un-dated letter. As a threshold matter, the Board requested that Mr. Iwaskow clarify whether his letter was intended as an appeal under section 84 of the Act.[5] Presuming the letter was intended as an appeal, the Board's letter went on to request that Mr. Iwaskow provide additional information corresponding to the categories of information, required by section 5(1) of the regulations governing Board proceedings,[6] to be included in "notices of objection" initiating appeals before the Board. Among other things, the Board requested that Mr. Iwaskow describe the "relief (i.e. result)" he sought from the appeal, the specific provisions of the Approval to which he objected, and the modifications he would request to be made to those provisions. The Board requested that Mr. Iwaskow be as "specific as possible" in providing this information.[7]

[6] The Board's February 9, 1998 letter also discussed the "directly affected" standing requirements of the Act, included Board decisions on standing in previous appeals, and requested that Mr. Iwaskow "explain" how he was "directly affected" by the Approval. In particular, the Board specifically requested that Mr. Iwaskow's explanation include a response to the Director's question of how Mr. Iwaskow could be "directly affected" if he lived 27 miles from the plant.[8]

[7] The Board's February 9, 1998 letter also requested that Mr. Iwaskow clarify the "reasons" why the Board should grant the relief he was requesting and identify the "issues" which he would like the Board to consider. The Board then summarized what it believed to be the concerns raised by Mr. Iwaskow's un-dated letter and requested that Mr. Iwaskow tie these concerns to specific provisions of the Approval and/or provide additional clarification regarding the nature of the

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5 February 9. 1998 letter from the Board to Mr. Alan Iwaskow, p. 1.

6 Alta. Reg. 114/93.

7 February 9, 1998 letter from the Board to Mr. Alan Iwaskow, pp. 2-3.

8 *Ibid.*, p. 3.

concerns. The Board cautioned Mr. Iwaskow that his "failure to address this matter adequately may result in the Board deciding, without further notice, that some or all of the issues raised will not be included in the appeal."[9]

[8] The Board's February 9, 1998 letter also requested that Mr. Iwaskow provide his position on whether the Board should dismiss his appeal or otherwise limit the issues to be considered, under sections 87(1) and (5) of the Act, in light of past and pending hearings on the plant conducted by the Alberta Energy Utilities Board [EUB] and its predecessor the Alberta Energy Resources Conservation Board [ERCB].[10]

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9 *Ibid.,* pp. 3-4.

10 *Ibid.,* p. 5.

[9] The Board's February 9, 1998 letter asked that Mr. Iwaskow "answer all of the questions as thoroughly as possible," and warned that his failure to respond to the information requests "may result in the Board's dismissal of your appeal."[11]

[10] Finally, the Board's February 9, 1998 letter responded to the Director's decision, in its January 26, 1998 letter referenced above, to forego "search[ing]" for all relevant documents until the Board decided whether Mr. Iwaskow had standing. The Board first noted its sympathy with the Director's desire to avoid unnecessary work. But the Board indicated that Mr. Iwaskow was entitled to review all relevant records in order to respond to the Board's questions regarding how he was "directly affected" and to respond to the Board's other requests for additional information. Hence, the Board required the Director to file an "itemization" of all relevant materials and to make them available to Mr. Iwaskow for his review and copying for purposes of preparing his responses to the Board's questions.[12] The Director provided the required itemization in a letter dated February 12, 1998 from counsel.

[11] On February 18, 1998 Mr. Iwaskow responded in writing to the Board's request for additional information. In this letter, Mr. Iwaskow first clarified that he had intended to file an appeal. As for the relief he requested, Mr. Iwaskow stated that he sought a "reform of policies used to enforce" the Act and a "reversal" of the Approval or "changes to the emissions levels" in the Approval.[13]

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11 *Ibid.*

12 *Ibid.*, p.4.

13 February 18, 1998 letter from Mr. Alan Iwaskow to the Board, p. 1.

[12] Mr. Iwaskow stated that he was "directly affected" by the Approval in several ways. First, he claimed to be affected in a "physical sense" due to his activities "near" to the plant site. These activities included driving a school bus "in the immediate vicinity," delivering fuel and fertilizer "throughout the entire area," substitute teaching at Teepee Creek, and recreating in the "immediate area." According to Mr. Iwaskow, any of these activities *might* bring him "adjacent" to the plant site. Mr. Iwaskow claimed that he was "directly affected" by the plant's emissions even when he was at his residence some 27 miles away from the plant, because those emissions contributed on a cumulative basis with other emissions to the "airshed of the entire area."[14]

[13] Mr. Iwaskow claimed he was "directly affected" by the Approval in a non-physical sense, essentially because, as a private citizen, he had a responsibility under the Act to protect the environment and believed it was necessary to file an appeal in order to carry out that responsibility.[15]

[14] On March 4, 1998, the Board requested the Director and Talisman submit comments on Mr. Iwaskow's letter by March 13, 1998. In response, the Director's counsel wrote that the letter still "does not meet the prima facie requirement" for standing, because it did not show a "direct, actual effect on a personal interest."[16] Talisman did not provide comments by the March 13, 1998

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14 *Ibid.*, p. 2.

15 *Ibid.*, pp. 2-3.

16 March 11, 1998 letter from David Day to the Board. The Director's counsel also asked: "[W]hat is the case that the Director would be expected to meet?" According to counsel, Mr. Iwaskow's appeal was directed at the 1988, joint Alberta Environment/Energy Resources Conservation Board "guidelines" allowing differential sulphur recovery rates for different size plants. Counsel then stated his confusion as to "what response the Director could make in front of the EAB other than listening while the guideline is challenged. This does not seem to be the proper use of an adjudicatory body." *Ibid.*

These questions imply that the Director was essentially bound to follow the guidelines in deciding the Approval's terms. Assuming this is true, the Board is unclear why the Director's counsel could not rely on those officials in the Department who were responsible for issuing the guidelines (if other than members of the Director's own staff) to defend them, if their validity was properly before the Board. Of course, the more fundamental question is whether the Board has jurisdiction to consider the guidelines' validity, even if the Director must follow them. The Director's counsel's bold statement that it is not "proper" for the Board to consider the guidelines' merits is not particularly helpful to the Board in answering this jurisdictional question. *Henuset v. Director of Chemicals Assessment and Management Division, Alberta Environmental Protection* (March 26, 1998), EAB No. 97-035. In *Henuset*, the Board noted the lack of "formal explanation" for the guidelines at issue, stated that the guidelines should not be applied "rigorously in every case," and concluded that there were compelling circumstances for foregoing their application in that appeal.

deadline.

Ibid., pp. 9-15. In this appeal, however, the Board need not decide whether it should follow the guidelines at issue, given its decision on Mr. Iwaskow's standing.

[15] On March 27, 1998, the Board sent Mr. Iwaskow another letter indicating that his February 18, 1998 description of how he was "physically" affected by the Approval was "not sufficiently clear and precise for the Board to decide" whether he had standing. However, rather than dismiss his appeal at that point for lack of proof or failure to adequately respond to the Board's prior request for information, the Board provided Mr. Iwaskow another opportunity for comment. The Board requested he provide written responses to specific questions which the Board asked regarding each of the four activities Mr. Iwaskow claimed that he conducted--driving a school bus, delivering fuel, substitute teaching, and recreating--all which purportedly led him to be physically affected by the Approval. The Board's questions were aimed at clarifying (1) how close those activities were to the plant site; (2) how often those activities occurred at locations near the plant site; and (3) how Mr. Iwaskow was physically affected by the plant given those frequencies and locations.[17] The Board raised several questions to clarify how Mr. Iwaskow was physically affected by the plant's emissions when he was at home, 27 miles from the plant.[18]

[16] The Board's letter further requested that Mr. Iwaskow provide copies of all written material on which he relied in providing his responses. The Board cautioned that his statements "should be supported by credible evidence, except those statements on which you have first-hand knowledge. . . ."[19]

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[17] March 27, 1998 letter from the Board to Mr. Alan Iwaskow, pp. 1-2.

[18] *Ibid.*, pp. 2-3.

[19] *Ibid.*, p. 3.

[17] Finally, the Board acknowledged that Mr. Iwaskow's allegations of standing raised "complex scientific questions whose answers may not be clear to experts." Accordingly, the Board made clear that it did not expect Mr. Iwaskow to be able to prove "definitively" for standing purposes that he, or natural resources used by him, would be harmed by emissions from the plant. However, the Board cautioned it could not find that Mr. Iwaskow had standing unless Mr. Iwaskow provided the Board with a "more clear description of the link between the plant's emissions and [him]self," in order to satisfy the Board that there was a "credible risk" that he would be "directly affected" by those emissions.[20]

[18] In an April 3, 1998 written response Mr. Iwaskow stated that the information requested in the Board's March 27, 1998 letter was "for the most part not available." According to Mr. Iwaskow, he could not advise how often his work-related activities brought him near the plant site because those jobs were all part-time and unpredictable.[21] As for proximity, he provided some additional clarification but continued to rely on vague references to activities conducted "nearby" or in the same "area" as the site.[22] Mr. Iwaskow did not comment on the "nature of the plant's emissions and how they will affect him" except to say that they are "obviously harmful if they need to be restricted."[23]

[19] On April 16, 1998, Talisman wrote the Board a letter stating that Mr. Iwaskow's initial letter "fails to meet the requirements" in the Board's regulations governing notices of objection. Talisman claimed Mr. Iwaskow's several responses to the Board's requests for information regarding his standing "clearly demonstrate" he lacked standing.

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20 *Ibid.*

21 April 3, 1998 letter from Mr. Alan Iwaskow to the Board, p. 1.

22 *Ibid.*, pp. 1-2.

23 *Ibid.*, p. 3.

DECISION OF THE BOARD

[20] Several issues have been raised thus far in this appeal: (1) whether Mr. Iwaskow has standing to present this appeal; (2) whether the Board should dismiss the appeal in light of past and pending parallel EUB/ERCB hearings; and (3) which, if any, of Mr. Iwaskow's concerns warrant the Board's consideration.

[21] As relevant here, section 84(1)(a)(iv) provides that a person who is "directly affected" by an Approval may file an appeal of that Approval with the Board. As summarized in the Background section above, Mr. Iwaskow's February 18, 1998 letter alleged that he was "directly affected" by the Approval in both "physical" and "non-physical" respects. The Board will address these respects separately in the following sections, starting with the latter.

1. Non-Physical Effects

[22] Mr. Iwaskow stated he was "directly affected" by the Approval because he had responsibilities, as an Albertan, to protect the environment and to provide "advice" to the Alberta Government on environmental decisions. He then argues this appeal is necessary for him to fulfill those responsibilities, given his underlying concern that the Approval is not sufficient to protect the environment.[24]

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[24] February 18, 1998 letter from Mr. Alan Iwaskow to the Board, p. 4.

[23] On the basis of standing, this is flawed for two reasons. First, the alleged non-physical "direct affect" is Mr. Iwaskow's inability to present an appeal if the Board finds that he lacks standing. This affect is insufficient because it results not from the Approval itself but from the Legislature's imposition of the "directly affected" test in section 84 of the Act. Second, regardless of the *source* of Mr. Iwaskow's inability to fulfill his environmental protection responsibilities, the Board does not believe that this *kind* of violation is valid for standing purposes. If it was valid, then every Albertan would have standing to appeal every one of the kinds of decisions listed in section 84. Whether or not that kind of broad approach to standing is advisable from a policy standpoint, it would render the "directly affected" test meaningless and, thus, cannot be said to be consistent with the Legislature's intent in adopting that test. As the Board has previously stated, the "directly affected" test requires a "discernible effect, i.e., some interest other than the abstract interest of all Albertans in generalized goals of environmental protection."[25]

[24] The Board does not imply a rigid rule that only physical affects are valid for standing purposes. For example, violation to an appellant's aesthetic enjoyment of a natural resource might be sufficient, if adequately proven, to demonstrate that the appellant has standing under the "directly affected" test. But Mr. Iwaskow's non-physical kind of violation is not sufficient.

[25] Nor should the Board's reference to the "abstract interest of all Albertans," from the Board's *Kostuch* decision, be read to imply that an appellant's interest must be unique in kind or magnitude in order to warrant standing. As the Board noted in that decision, "[t]o deny standing to certain individuals on the basis that *many other* individuals will also be directly affected is illogical. It would mean that widespread pollution events that generate direct effects on groups of individuals (or worse yet, an entire community) could be questioned by nobody."[26] In a previous decision, the

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25 *Dr. Martha Kostuch v. Director, Air and Water Approvals Division, Alberta Environmental Protection*, Appeal No. 94-017, August 23, 1995, Decision, p.13. The Board's statement above was quoted and approved by the Alberta Court of Queens Bench in *Kostuch v. Environmental Appeal Board, et al.*, [1996] 21 C. E.L.R. (N.S.) 257, 264.

26 *Kostuch v. Alberta (Director, Air and Water Approvals Division, Environmental Protection),* [1995] 17 C.E.L.R. (N.S.) 246, 261. (emphasis in original).

Board similarly stated that:

> "[o]ne might be led to the conclusion that no person would have standing to appeal because of his inability to differentiate the affect upon him as opposed to his neighbour. This is unreasonable and it is not in keeping with the intent of the Act to involve the public in the making of environmental decisions which may affect them."[27]

The problem here is simply that Mr. Iwaskow's type of non-physical injury does not comprise a "direct affect" on himself.

2. Physical Effects

[27] *Hazeldean Community League and two citizens of Edmonton v. Director of Air and Water Approvals, Alberta Environmental Protection* (May 11, 1995), Appeal No. 95-002, p. 4. Besides the policy reasons expressed in the *Hazeldean* decision for not requiring a unique affect to demonstrate standing, the Board adds that the plain language of section 84(1)(a)(v) of the Act does not require that the affect be unique. That section grants standing to "any person" who is "directly affected" by the Director's decision at issue. On its face, the term "directly affected" does not require the appellant to be the "only" person affected or even to be "more" affected than anyone else.

[26] Mr. Iwaskow claims that, because he conducts work and recreation activities “near” or “adjacent” to the plant, he is "obviously" “directly affected” by it in a physical sense.[28] The Board, however, does not believe this affect is "obvious". Although Mr. Iwaskow does not make it clear, it appears that the affects result from his direct exposure to air pollution emitted from the plant. It is not apparent what kinds of pollution are of concern and how they might "affect" him. Mr. Iwaskow did not require definitive proof that he is affected by the plant's air pollution for standing purposes, but he must provide sufficient evidence to at least suggest that there is a reasonable risk of harm from the approved activity that he challenges on appeal.

[27] In order to determine whether this risk exists, the Board requires information on the nature of Mr. Iwaskow's exposure to air pollution from the plant through his work and recreation activities. Several factors would bear on the nature of Mr. Iwaskow's exposure: how close his activities brought him to the plant, how often he was likely to be at those locations, the amount of time he spent at those locations, and how often the plant's emissions were likely to reach those locations. Not one of these factors need be dispositive; but it would seem reasonable that the less of any one factor, the more prominent one or more of the others need to suggest that Mr. Iwaskow will be meaningfully exposed to the plant's pollution.[29]

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28 February 18, 1998 letter from Mr. Alan Iwaskow to the Board, p. 2.

29 For example, Mr. Iwaskow's locations could be a long distance from the plant if he could show that there was a reasonable risk the plant's air emissions of concern actually traveled that distance. On the other hand, if Mr. Iwaskow showed that his activities brought him to the actual plant site on many occasions for long periods of time, he need not show that the plant's emissions were likely to travel long distances.

[28] The Board twice attempted without success to elicit information from Mr. Iwaskow on these factors. In his April 3, 1998 letter, Mr. Iwaskow stated that he could not predict the frequency of his occurrence at locations "adjacent" or "near" the plant because his work was on an as-call basis, rather than regularly scheduled, and his recreation was also unpredictable. Admittedly, the un-scheduled nature of Mr. Iwaskow's activities makes predicting exposure difficult but an estimate of those frequencies based upon his recollection of the frequency of his work and recreation activities in the past could have been provided.[30] The Board can only infer from Mr. Iwaskow's refusal to make this estimate, that his exposure frequencies at locations "adjacent" to the plant are likely very low.

[29] As for proximity, the Board sought further clarification of those activities. Not even based on his conduct of those activities in the past was clarification provided on his meaning of "adjacent" or "nearby." Once again, the Board can only infer from his failure to provide this basic information, that Mr. Iwaskow uses the concepts of "adjacent" and "near" quite loosely.

[30] Mr. Iwaskow did provide that, in the past, his work for All-Crop Agri Services has necessitated driving along roads "bordering the south and east sides" of the plant, that he substitute taught in Teepee Creek and Sexsmith, and that he has recreated in the Kleskun Hills "nearby to the south" of the plant.

[31] However, Mr. Iwaskow made no attempt to show, nor did he even allege, that the prevailing (or other less frequent) winds would carry the plant's emissions to those locations or, for that matter, to the more vague locations where he conducted his other activities. The Board recognizes that, whereas Mr. Iwaskow has personal knowledge of his locations and frequency at those locations, he is not expected to have personal knowledge of whether and when the precise path of the plant's emissions crosses those locations. But it is possible -- through diligent research -- to estimate those facts. It is not apparent that Mr.

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30 For example, if Mr. Iwaskow's work and recreation brought him "adjacent" to the plant roughly fifty times within the last year, and he had no reason to expect that this overall frequency would be any different in rough terms in the next few years, he could have estimated his frequency of exposure at "adjacent" locations to be fifty times per year.

Iwaskow even attempted to make this estimate, by either reviewing the materials which the Director affirmatively provided, or reviewing any of the other materials itemized by, and made available for review by, the Director at the Board's request, or by obtaining the information from other sources (e.g. wind speeds and directions can likely be accessed from the internet, libraries, and other places).

[32] In short, Mr. Iwaskow essentially leaves it to the Board to either obtain the required information regarding the nature of his exposure, or to simply assume that he is exposed, to the plant's emissions, and/or to shift the burden to the Director to prove that he is not exposed. However, the Board does not believe that any of these actions are warranted. Mr. Iwaskow has not clarified the facts of which he has personal knowledge, nor reasonably attempted to obtain other relevant facts. As a result, Mr. Iwaskow has not made a *prima facie* showing with respect to the nature of his exposure to the plants emissions through his work and recreation "near" or "adjacent" to the plant.

[33] Not only did he provide insufficient details for the Board to make even a rough estimate of the nature of his exposure to the plant's emissions, Mr. Iwaskow expressly declined to even allege how the plant's emissions would affect him given his level of exposure. Once again, he leaves it up to the Board to infer that the emissions will adversely affect him, which inference the Board will not draw absent any effort on his part to garner supporting evidence.

[34] Besides his activities "adjacent" to the plant, Mr. Iwaskow claimed that he was physically affected by the plant's emissions when at his home, 27 miles from the plant. According to the Appellant, the plant's emissions contributed, on a cumulative basis with emissions from other sources, to the "airshed of the entire area."[31] In its March 27, 1998 letter, the Board requested that Mr. Iwaskow define the geographic scope of the relevant pollution "airshed," so that the Board could determine whether Mr. Iwaskow's home was potentially in that airshed, and the potential impacts of the plant's emissions within that airshed. Mr. Iwaskow's April 3, 1998 response letter completely ignored the Board's request. Once again, he leaves it to the Board to assume the necessary links in the chain of causation or requires the Director to disprove them. The Board will not take these steps -- at least not on the facts of this case.

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[31] February 18, 1998 letter from Mr. Alan Iwaskow to the Board, p. 2.

[35] Without defining the boundary of the relevant airshed, Mr. Iwaskow's approach, taken to its logical extreme, would require the Board to presume that a person living in southern Alberta, or Saskatchewan, or for that matter Montana, is in the same "airshed" as the plant's emissions. This scenario is not inconceivable, but it requires some proof before the Board will accept it or at least require the Director to disapprove it.

[36] Mr. Iwaskow's letters stress that he is "directly affected" by his *cumulative* exposures to the plant's emissions, from his home and from his work and recreation, rather than by any one kind of exposure. The Board agrees that, in theory, a person may be "directly affected" by cumulative exposures to multiple individual exposures to a pollution source, which source itself may be a problem only when considered cumulatively with other pollution sources. But in order to find that cumulative exposures "directly affect" an appellant, the Board must have sufficient information about the nature of those multiple individual exposures in order to evaluate the cumulative exposure. By analogy, one generally cannot know what number is the sum total of a set of numbers without knowing what numbers comprise the set. Mr. Iwaskow's failure to clarify his individual exposures prevents the Board from drawing any even rough conclusions regarding his cumulative exposure. Then, of course, we have to move to the question of the impact of specific emissions from the plant being challenged.

[37] Mr. Iwaskow's failure to fully respond to the Board's requests for additional information regarding how he might be "directly affected" by the Approval raises a difficult question of the extent to which the Board should develop proof of the citizen's standing to file the appeal, if the citizen is either unwilling or unable to do so on his own. The Board considers it important to ensure that the public has a meaningful chance to participate in environmental decisions. The Board also recognizes the difficulties that private citizens face in properly presenting appeals before this Board given a lack of financial resources relative to those of their competing opponents.[32] To help alleviate some of these difficulties, the Board believes that it is often necessary to apply its rules of procedure leniently in appeals brought by private citizens, again, particularly when they are not

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[32] *Re: Kozdrowski* (1997), 23 C.E.L.R. (N.S.) 269.

represented by counsel, lack the assistance of scientific experts, and have done everything they can otherwise do on their own behalf. The Board's approach of leniency is evident in this appeal, where the Board requested additional information from the appellant *three* times in order assist him to provide the required burden of proof.

[38] The Board also believes that there are limits as to how far it can and should go in accommodating private citizen-appellants. Although it is impossible to define those limits precisely, at the extreme end of the scale is the appellant who files an appeal (or, in this case, a letter which does not even clearly indicate that it is intended as an appeal) and, by virtue of that filing alone, expects the Board to affirmatively investigate the merits of the Director's decision that has been appealed. While the Board firmly believes that the values of participatory democracy apply with full force in the environmental arena, it also believes that democracy requires work. Appellants who are not themselves scientists must be willing to comb through the Department's records, conduct their own survey of the scientific literature, and obtain other relevant information, in order to demonstrate the validity of their concerns. Appellants must overcome the required burden of proof to assist the Board in discharging its task.

CONCLUSION

[39] The Board concludes that this appeal be dismissed due to lack of standing. Given this decision, the Board need not address the other pending issues.

Dated on April 30, 1998, at Edmonton, Alberta

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Dr. William A. Tilleman