

ALBERTA
ENVIRONMENTAL APPEAL BOARD
DECISION

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 an appeal filed by Mr. Bill Lucey, Confederation of Regions Political Party (Federal) with respect to Decision No. 97-13 issued by the Alberta Energy and Utilities Board to Syncrude Canada Ltd. for the Aurora Mine.

Cite as: Lucey v. Alberta Energy and Utilities Board #1, re: Syncrude Canada Ltd.

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BACKGROUND

[1] Mr. Bill Lucey, Leader of the Confederation of Regions Political Party (Federal) [CORE], filed a Notice of Appeal dated October 28, 1997, and received on November 4, 1997, with the Environmental Appeal Board [Board]. Mr. Lucey's Notice of Appeal contained the following information:

"Please accept this letter as, "Cores", Notice of Appeal for the recent application by Syncrude for the Aurora Mine, application no. 960552 and Decision No. 97-13 (A attached)

We "Core", demand a two year halt on this decision no. 9713 so that we might.

- (1) arrange for public hearings on this project.
- (2) contact Environnement [sic] Canada in Ottawa, about new found right to sue the board of directors of "Syncrude", and the three signing board members (attached B) if this project does damage to our environment [sic]. eg. CO₂ emissions [sic], "settling pond" breaks at Syncrude, diesel fuel emissions [sic] ect. [sic]"

[2] The Board acknowledged Mr. Lucey's appeal in a letter dated November 5, 1997, and requested the Department of Environmental Protection [Department] provide copies of all related correspondence, documents and materials.

[3] On November 7, 1997, the Department advised the Board in a letter dated November 6, 1997, of the following:

"We would respectfully submit that the Environmental Appeal Board does not have jurisdiction to hear this matter. Section 84 of the Environmental Protection and Enhancement Act does not confer on the Environmental Appeal Board the jurisdiction to review decisions by the Alberta Energy and Utilities Board.

We therefore request that the Board review the document sent by Mr. Lucey in this matter and dismiss the appeal on the basis of lack of jurisdiction by the Board."

[4] On November 10, 1997, the Board received via carbon copy, a letter from Alberta Energy and Utilities Board [AEUB] to Mr. Lucey which states:

“Your “Notice of Appeal” dated 28 October 1997 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.”

[5] Subsequent to the Department’s earlier letter of November 6, 1997, further correspondence dated November 13, 1997, from the Department, was received stating:

“Further to our letter of November 6, 1997 we would advise that the Director has made no decision regarding the Syncrude application for an approval from Alberta Environmental Protection. Please find attached a memorandum from Dennis Ericksen, Manager, Regulatory Approvals Centre, providing confirmation of same.¹

Therefore, as the Appeal before the Board does not fall under section 84 of the Environmental Protection and Enhancement Act and that no decision has been made by the Director regarding the Syncrude Application, we request that this Appeal be dismissed on the basis of lack of jurisdiction by the Board.”

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

¹ Memorandum from Dennis Eriksen, Manager, Regulatory Approvals Centre, Alberta Environmental Protection, to Maureen Harquail, Environmental Law Section, Alberta Justice, dated November 12, 1997 states:

“The Environmental Appeal Board has requested copies of all related documents pertaining to this proposed operation.

The Department has not completed reviewing the application that the proponent submitted pursuant to the Environmental Protection and Enhancement Act so no Director’s decision has been issued.

Mr. Bill Lucey did not submit a statement of concern pertaining to the application submitted in accordance with the Environmental Protection and Enhancement Act.”

"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.

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], ..."

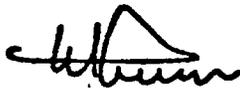
DECISION OF THE BOARD

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

CONCLUSION

[8] This appeal is, therefore, dismissed for lack of jurisdiction.

Dated on November 28, 1997 at Edmonton, Alberta.



Dr. William A. Tilleman