

NATURAL RESOURCES CONSERVATION BOARD

APPLICATION #9101 EXPANSION OF THE ALBERTA SPECIAL WASTE TREATMENT CENTRE REPORT ON 11 FEBRUARY 1992 MEETING AT SWAN HILLS

A meeting before the Board was held in Swan Hills on 11 February 1992 to hear a status report by the Indian Association of Alberta, and the Grouard, Sucker Creek, Swan River and Driftpile Indian Bands (the Indian Association of Alberta and these Bands are hereinafter collectively referred to as the "Indian Bands") respecting the progress of their intervention. Appearing at the meeting were Mr. Slavik for the Indian Bands, Mr. Wilde for Edmonton Friends of the North Environmental Society, and Mr. Saville for Chem-Security (Alberta) Ltd. (hereinafter referred to as "CSAL").

As a result of the meeting, the Board confirmed the resumption of the hearing at 9:00 a.m. in the Swan Hills Community Centre on 26 March 1992, with filing of the submission on behalf of the Indian Bands to be no later than 20 March 1992.

At the meeting the Indian Bands made a number of requests of the Board. The Board reserved decision with respect to the following matters:

1. That the Board direct the Alberta Special Waste Management Corporation (hereinafter referred to as "ASWMC") and the Joint Venture of the ASWMC and Bovar Inc. be joined with CSAL as applicant;
2. That the Board direct the Honourable Mr. Klein, Minister of the Environment, or a senior representative of his Department and further that Mr. Clark, Chairman, or some other member of the Board of the Alberta Special Waste Management Corporation, appear at the hearing to give evidence and answer questions; and,
3. That the Indian Bands receive an advance of funds in respect of costs to facilitate their participation in the hearing.

This report contains the Board's decisions with respect to the above matters. In reaching its decisions the Board had regard for the arguments put forth by the various participants at the meeting.

1. THE APPLICANT

The Board is satisfied that CSAL is making the application on behalf of the owners of the Centre, ASWMC and Bovar Inc., and that these parties are bound by any commitments or undertakings given by CSAL. Further, the Board is satisfied that the owners of the Centre would be bound by any Board decision with respect to the applied for expansion of the Centre. For this reason the Board is not prepared to direct that the owners of the Centre be joined with CSAL as applicants.

2. THE APPEARANCE OF ADDITIONAL WITNESSES

The Board is not satisfied that the additional witnesses requested by Mr. Slavik for the Indian Bands are required to provide the information that is necessary to conduct a full review of the application for the incinerator expansion at the Treatment Centre. Therefore, the Board is not prepared to direct the Honourable Mr. Klein or a senior representative of his Department, or Mr. Clark or some other member of the Board of the ASWMC, to appear at the hearing to give evidence and answer questions.

3. ADVANCE OF FUNDS IN RESPECT OF COSTS

Mr. Slavik requested an advance of funds in respect of costs to assist with the continued participation of the Indian Bands in the hearing. The items covered by the requested advance and the estimated amounts are as follows:

- a) \$21,000.00 for expert technical assistance to review estimates of future volumes of waste available to the Centre and the methodology employed by both CSAL's and the Swan Hills Expansion Review Coalition's consultants in the preparation of their Waste Volume reports;
- b) \$9,000.00 for expert technical assistance to review and prepare a report regarding the proposed monitoring program for the planned expansion;
- c) \$30,000.00 for legal assistance; and,
- d) \$10,000.00 for "out of pocket" costs of members of the Indian Bands' Steering Committee to allow their involvement in the ongoing work and for attendance at the hearing.

CSAL accepted that the Indian Bands are eligible for a funding award in accordance with Section 10 of the Natural Resources Conservation Board Act.

With respect to the request for expert technical assistance, the Board notes that both waste volumes and monitoring were dealt with extensively in the evidence provided by CSAL, the intervention of the Swan Hills Expansion Review Coalition and in questioning at the hearing to date. Having this in mind, the Board is not convinced that funding should be provided for further in depth analysis of these matters as requested by the Indian Bands. However, the Board agrees that it would be desirable for some expert technical advice to be available to Counsel for the Indian Bands in order to review the application and to prepare questions and argument for the hearing. The Board is prepared to recognize such assistance in the form of an advance of costs, but believes that the costs should be less than half of the \$30,000.00 estimated by Mr. Slavik.

The Board is also prepared to recognize the cost of: (i) legal assistance, and (ii) out of pocket expenses for the attendance of the Steering Committee at the hearing and a reasonable number of organizational meetings in an advance award of costs. Such costs must be reasonable and required to assist the Indian Bands' in their participation in the hearing. The total estimate for these items put forth by Mr. Slavik was some \$40,000.00. In the Board's opinion this estimate appears higher than the costs need be. The Board is prepared to include \$25,000.00 in the advance of costs for these items.

In summary, the Board is prepared to make an advance of \$40,000.00 to the Indian Bands. It will direct CSAL to provide these funds to Mr. Slavik's firm for disbursement on behalf of the Indian Bands. The advance is being made on the understanding that if the final cost award is less than the advance, the difference in the amount will be returned by Mr. Slavik to CSAL. The final cost award will be made by the Board following completion of the hearing on the basis of a cost application to be filed by the Indian Bands.

Issued by the Board
12 February 1992

THIS IS AN ELECTRONIC COPY OF THE ORIGINAL REPORT WHICH CONTAINED THE BOARD MEMBERS SIGNATURES.

G.J. DeSorcy - Chairman

G.A. Yarranton - Vice-Chairman

C.H. Weir - Member
