

1. INTRODUCTION

The Natural Resources Conservation Board Act (the Act) created a Board "...to provide for an impartial process to review projects that will or may affect the natural resources of Alberta in order to determine whether, in the Board's opinion, the projects are in the public interest, having regard to the social and economic effects of the projects and the effect of the projects on the environment." The Act spells out certain types of projects that are subject to review. These "reviewable projects" include any specific project prescribed by the Lieutenant Governor in Council. The Act prohibits the commencement of a reviewable project unless the Natural Resources Conservation Board (NRCB), on application, has granted an approval of the project.

The Lieutenant Governor in Council, by Order in Council 377/91 dated 6 June 1991, prescribed "... the incinerator expansion at the Alberta Special Waste Treatment Centre at Swan Hills proposed by Chem-Security (Alberta) Ltd. as a reviewable project under..." the Act. As a result, Chem-Security (Alberta) Ltd. (hereinafter referred to as Chem-Security) will be required to file an application with the NRCB and obtain an approval prior to commencing the planned expansion.

The Board held a public meeting at the Swan Hills Community Centre on 3 July 1991 to hear representations regarding a number of aspects of the proceeding to be used to consider the expected application. Those individuals or organizations that attended and participated in the meeting are listed in Appendix A.

This report presents the Board's conclusions respecting the matters considered at the meeting. It does not include a detailed summary of the various views presented by participants in the meeting, but a transcript of the meeting is available for review at the Board's offices. The agenda items for the 3 July meeting were as follows:

1. The information to be included in an application.
2. The likely timing of the filing of an application.
3. The need for a hearing and pre-hearing meetings.

4. The timing and location of the hearing, if one is required, and the dates for the filing of submissions.
5. Intervener funding
6. Other matters.

2. BACKGROUND REGARDING THE PREPARATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT

Alberta Environment advised the Board at the outset of the meeting that the Environmental Impact Assessment (EIA) process had commenced in mid-1990. Draft terms of reference for the EIA were prepared in late 1990, reviewed by Government departments, and circulated for comment to certain special interest environmental groups. The terms of reference were finalized in early 1991 and Chem-Security commenced preparation of the EIA. The draft EIA was initially prepared in draft form and made available to the public at a number of meetings.

Alberta Environment advised that Chem-Security had completed the EIA and filed it with Alberta Environment on 2 July 1991. Alberta Environment and some 15 other government departments will now commence the review of the EIA and expect to identify any information deficiencies by the end of August.

3. THE INFORMATION TO BE INCLUDED IN AN APPLICATION

The NRCB, by letter dated 7 June 1991, advised Chem-Security of the information that would be required in an application to expand the Swan Hills Waste Treatment Centre. The required information includes the EIA referred to in the previous section of this report. The Board's letter to Chem-Security was made public, and in particular, participants in the 3 July meeting were aware of its contents.

Chem-Security stated that it was preparing an application in accordance with the 7 June letter from the NRCB and expects to file the application, including the EIA, by the middle of July.

Participants in the meeting were generally of the view that the requirements set out in the 7 June letter were comprehensive, but a number of them raised issues which they said were either absent from the letter or were worthy of special emphasis.

Several of the participants commented on the need for the application to deal with matters such as:

- the commercial viability and economics of the project,
- the financing arrangements,
- the economic impacts,
- the need for the expansion,
- the types of wastes to be handled and their origins,
- the required provincial infra-structure including transportation routes,
- the security of pit liners and other safety measures, and
- the plans to respond to possible emergencies.

The Board agrees that these are issues that can affect the overall public interest of the proposed expansion, and has included a requirement for information to deal with them. It notes that the terms of reference for the EIA also deal with a number of these matters. The Board however, wishes to emphasize that it has jurisdiction, through the prescribing Order in Council, to deal only with the expansion of the project. As a result, information respecting the existing facility will be required only to the extent that it is needed to assess the affects of the proposed expansion.

At least one of the participants raised the question of whether the Board would be dealing with the issue of bringing wastes to the proposed facility from outside the province of Alberta. The Board has asked the applicant to provide information respecting the origins of the wastes it intends to treat. The information supplied in that regard will largely determine whether wastes from extra-provincial sources are relevant to the application before the Board.

The questions of alternatives to the use of incineration in general and of alternatives to the expansion of the incineration facilities at the waste treatment centre in particular, were also raised as issues to be dealt with at the hearing. The Board believes the question of alternatives to the proposed expansion is a matter which will likely be discussed at any hearing, but emphasizes that its interests would relate only to alternatives to the expansion and not to alternatives for the facilities which were built several years ago and are in operation. The Board would expect to review the alternatives to the expansion on the basis of economic, technical and other information relating to the need and justification for the proposed expansion.

Participants in the meeting also suggested a number of broader issues that should be considered by the Board. These included matters such as provincial policies regarding wastes, the handling of toxic wastes in the past, the question of whether industry has sufficiently reduced the generation of wastes, and the potential problem of poor communities becoming areas for the

dumping of wastes. The Board does not consider that it has jurisdiction with regard to such matters and would not require information respecting them.

Some participants suggested that the review should be considering cumulative impacts of not only the Swan Hills Special Waste Treatment Centre, but also of logging, petroleum and other activities that might affect the area or the Athabasca River. The Board does not intend a detailed review of the impact of other facilities or activities in the region, but it does intend to take into account in its assessment the extent to which the effects of the proposed expansion add to or compound the effects of existing development in the affected area. To that extent, the assessment will be "cumulative" in nature, and the Board will expect the information to be provided in accordance with part 20 (a) of its 7 June letter to be sufficient to allow such an assessment.

The question of federal involvement in the review of the expansion application was also raised. The Board has been in contact with federal officials in this respect and has been advised by Environment Canada that "...Environment Canada will not be initiating the Environmental Assessment and Review Process (EARP) with regard to this project. I am also not aware of any other federal government department having, or intending to do so." The Board also knows that Federal officials have been kept aware of procedures regarding the preparation of the EIA, and that they will have an opportunity to review the EIA and provide input to Alberta Environment with respect to any deficiencies. They will also be provided with a copy of the application to the NRCB when it is filed.

In summary regarding the information to be included in an application, the Board is satisfied that the requirements set out in its 7 June 1991 letter to Chem-Security, coupled with the Terms of Reference for the EIA, are such that sufficient information should be available to assess whether or not the proposed expansion is in the public interest. Upon receipt of the application, the Board will review it in detail for deficiencies and request any additional required information from Chem-Security. In making the review, the Board will have appropriate regard for those matters discussed at the Swan Hills meeting.

4. THE LIKELY TIMING OF THE FILING OF AN APPLICATION

As indicated earlier in this report, Chem-Security advised the Board that it has already filed the EIA with Alberta Environment and plans to file an application with the NRCB by mid-July. The Board does not believe its conclusions in the previous section regarding the information to be included in an application should significantly affect the filing date.

Following receipt of the application, the Board will review it for completeness. Provided the application is filed by mid-July, the Board expects that the review will be completed by the end of August, the time at which the Alberta Environment co-ordinated review of the EIA is intended to be completed. A letter outlining any deficiencies in the application, including the EIA, will be sent to Chem-Security.

5. THE NEED FOR A HEARING

Chem-Security took no position on the need for a public hearing to review its expansion application, but described the EIA preparation and review process to date. The Mayor of Swan Hills and the Swan Hills Liaison Committee questioned the need for a hearing, recognizing the extensive review of the Swan Hills facilities over the past 10 or so years. Most other participants took the position that there was a need for a hearing, referring to many potential impacts the planned expansion could have on the province.

The Board believes sufficient interest and concerns exist respecting the proposed expansion to justify the holding of a public hearing.

6 THE TIMING AND LOCATION OF THE HEARING

Chem-Security suggested that the preparation for the hearing could commence with the filing of its application in mid-July, and proceed in parallel with the deficiency review process. It therefore contended that any hearing should be held not later than early November 1991. Chem-Security suggested that any hearing should take place in Swan Hills.

The Mayor of Swan Hills and the Liaison Committee both stated that if a hearing is judged to be necessary, it should be in Swan Hills and should take place as soon as possible.

Several of the other participants took the position that the hearing should not occur until three to four months after the application was complete. They suggested that this would mean a hearing in the spring of 1992. None opposed a hearing at Swan Hills, but several suggested that a hearing should also take place at Edmonton and perhaps other locations in Alberta. Mr. Lawrence suggested the need for additional pre-hearing meetings at major centres in Alberta to further scope the EIA and the contents of the application.

With respect to the location of the hearing, the Board believes as a principle, that hearings should generally take place in the regions in which projects are proposed. In this manner, those persons most directly affected by a project would have the maximum opportunity to participate in the hearing respecting that project. In this case, the Board believes the hearing should be in Swan Hills.

The Board does not believe there should be more than one hearing of a project, as was suggested by some participants, except in very special circumstances. This is because each of the hearings would have to be complete in all respects, in order for participants to follow the proceeding and have meaningful input. This would not be efficient, and in the Board's judgement, is not warranted with respect to the expansion of the Swan Hills Special Waste Treatment Centre. Also,

although the Board is very supportive of ongoing discussions between the applicant and potential interveners, it does not believe further formal pre-hearing meetings are needed at this time.

The Board believes the timing for the hearing should be based on the expectation that the application will be filed by mid-July and that the deficiency review for the application, including the EIA, will be available by the end of August. The board also believes that the timing should recognize that the preparation of the EIA has included a public involvement process, the EIA is now available to the public, the application itself will be available by mid-July, and the preparation for the hearing can be going forward while the deficiency review is taking place. Having those factors in mind, the Board does not accept the position of some of the participants that three to four months are required after the response to deficiencies is complete. Rather, it believes that approximately six weeks would be adequate notice following the receipt of the response to deficiencies. This compares to the minimum of 30 days notice as provided by the Act and draft regulations.

The Board believes the following schedule is a reasonable one in terms of the timing of the hearing.

Availability of EIA - 2 July 1991

Filing of Application - 15 July 1991

Completion of review and request for
deficient material (application and EIA) - 30 August 1991

Response to deficiency request - 23 September 1991

Hearing date - 12 November 1991

On the basis of the above schedule, the Board will set the hearing for the Swan Hills Community Centre commencing 12 November 1991. If some of the critical dates in the above schedule are substantially delayed, for example the response to the deficiency letter, the Board would reconsider the date for the hearing.

The Board will be issuing a preliminary notice of the application after it is filed in mid-July, and announce the planned hearing date of 12 November 1991. Following the filing of a satisfactory response to any deficiency letter, the Board will be issuing a final notice of hearing, confirming the 12 November hearing date or establishing a new one if there has been significant slippage to the schedule.

There was little discussion of the appropriate date for the filing of submissions. The Board believes that with a planned hearing date of 12 November, a filing date for submissions of 1 November 1991 would be appropriate.

7. INTERVENER FUNDING

The Board is authorized by the Act to award costs to "Individuals or groups of individuals who, in the opinion of the Board, are or may be directly affected by a reviewable project...". Much of the discussion respecting this matter related to the interpretation of the words "directly affected". The Board has drafted intervener cost regulations which it considers consistent with the direction given by the Act. Those regulations have been released in draft form for comments from the public and should be finalized by about 22 July 1991. The Board will shortly thereafter issue a guideline document which will give greater details regarding intervener costs. Participants in the Swan Hills meeting will be provided with copies of the finalized regulations and the cost guidelines as soon as they are available.

Many of the participants in the meeting indicated a desire to work together to ensure a co-ordinated approach by interveners at the hearing and thus make the proceeding more efficient. They also expressed a desire to work with the applicant, Chem-Security, to identify and possibly resolve questions and concerns prior to the hearing. Chem-Security expressed support for such an approach, and a meeting between a number of environmental groups and Chem-Security is scheduled for 15 July 1991.

The Board is highly supportive of efforts by interested parties to work together and make the hearing process more efficient, and hopefully more effective. It also strongly supports early and on-going communication between potential interveners and the applicant, with the objective of identifying and possibly resolving concerns.

The Act and regulations have as their basis, the awarding of costs after a proceeding has been completed. They do however, provide for an advance of costs where judged appropriate. Any potential intervener, either prior to or following the 15 July or similar meetings with the applicant, may wish to make application to the Board for recognition as a directly affected party and for an advance of costs. Such requests must be in accordance with the regulations and guidelines, and in particular should include reasons why the intervener considers itself a directly affected party. The request should also detail the studies that would be undertaken, the type of expert assistance required, the estimated costs, and reasons why an advance is necessary. The Board would obtain comments on such requests for advance funding from the applicant and make the necessary decisions regarding the eligibility for costs and the need for an advance.

8. OTHER MATTERS

A number of additional matters were raised at the meeting, a few of which warrant Board comment in this report. There was a suggestion at that meeting that the expansion of the Swan Hills Special Waste Treatment Centre has commenced. The Board has investigated the matter and determined that such is not the case. The Act and prescribing Order in Council prohibit the

commencement of the expansion of the Centre until the necessary NRCB approval is obtained. The Board is satisfied that Chem-Security is fully aware of that requirement and will adhere to it.

One other matter related to the need for an NRCB Edmonton office as well as that locate in Calgary. The Board has made arrangements for a small Edmonton office and the address of that office and the one in Calgary are as follows:

Calgary Office:

10th Floor Energy Resources Building
640 - 5th Avenue S.W.
Calgary, Alberta
T2P 3G4

Telephone: (403) 297-8303
FAXS: (403) 297-5270

Edmonton Office:

7th Floor Princeton Place
10339 - 124 Street
Edmonton, Alberta
T5N 3W1

Telephone: not available at this time
FAXS: not available at this time

It is anticipated that the Edmonton office will open on or shortly after 22 July 1991. Interested parties may contact either office in order to arrange for an appointment to review documents maintained with respect to this proceeding.

DATED at Calgary, Alberta this 11th day of July 1991.

NATURAL RESOURCES CONSERVATION BOARD

ORIGINAL DOCUMENT CONTAINS SIGNATURES:

G.J. DeSorcy
Chairman

G.A. Yarranton
Vice Chairman

C. Weir
Board Member

APPENDIX A

THOSE WHO APPEARED AT THE 3 JULY 1991 MEETING AT SWAN HILLS

Participants

Chem-Security (Alberta) Ltd.

F. M. Saville, Q.C.

R. A. Neufeld

Alberta Environment

R. L. Stone

Alberta Trappers Association

J. Rogers

Eco-City Society of Edmonton

Edmonton Friends of the North

Mother Earth Healing Society

R. Lawrence

Environmental Resource Centre

Toxics Watch Society

Pembina Institute for Appropriate Development

Alberta Wilderness Association

Calgary Eco-Centre

Voice of Women - Edmonton Branch

Canadian Parks and Wilderness Society of Alberta

Alberta Coalition Forest Spray Alternatives

Canadian Society of Environmental Biologists

B. Stazinski

M. Kitagawa

R. Macintosh

R. Chant

Fort Assiniboine District Environmental Association

D. Breithkreitz

Spokesperson for herself and other young people

Ms. M. Rogers

Alberta Special Waste Services Association
T. D. Bosse

Town of Swan Hills
Mayor W. Peters

Swan Hills Liaison Committee
Ms. L. Dakin

Alberta Special Waste Management Corporation
Ms. I. Chanin

Environment Canada
F. Zaal

Natural Resources Conservation Board Staff
W. Y. Kennedy
P. Cleary
Ms. J. Ingram
M. Bruni (ERCB staff)