

ALBERTA
ENVIRONMENTAL APPEALS BOARD

Decision

Date of Decision – January 29, 2007

IN THE MATTER OF sections 91 and 96 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12;

-and-

IN THE MATTER OF an appeal filed by Ted Ganske with respect to *Environmental Protection and Enhancement Act* Approval No. 204916-00-00 issued to CCS Inc. by the Director, Northern Region, Regional Services, Alberta Environment.

Cite as: Costs Decision: *Ganske v. Director, Northern Region, Regional Services, Alberta Environment* re: *CCS Inc.* (29 January 2007), Appeal No. 04-090-CD (A.E.A.B.).

BEFORE:

Dr. Steve E. Hrudehy, Chair, and
Mr. Jim Barlishen, Board Member.

SUBMISSIONS PROVIDED BY:

Appellant: Mr. Ted Ganske, assisted by Ms. Sally Ulfsten.

Director: Mr. Park Powell, Director, Northern Region,
Regional Services, Alberta Environment,
represented by Mr. Darin Stepaniuk, Alberta
Justice.

Approval Holder: CCS Inc., represented by Mr. John Thompson,
Vice-President, CCS Inc. and by Mr. Shawn
Munro, Bennett Jones LLP.

EXECUTIVE SUMMARY

Alberta Environment issued an Approval under the *Environmental Protection and Enhancement Act* to CCS Inc., authorizing the construction, operation, and reclamation of the Bonnyville Waste Management Facility, a Class II Industrial Landfill designed to accept oilfield waste, near Bonnyville, Alberta. The Board received a Notice of Appeal from Mr. Ted Ganske appealing the Approval. The Board held a hearing and the Minister accepted the Board's recommendations.

At the close of the hearing, all of the parties indicated they would not be claiming costs. Approximately five weeks after the hearing, Mr. Ganske informed the Board that he would not be seeking costs, but Ms. Sally Ulfsten, who assisted him at the hearing, would be submitting a costs application.

The Board asked the parties to address whether the Board should consider Ms. Ulfsten's costs application given the statements made by Mr. Ganske at the hearing that he was not going to request costs.

The Board determined the costs application was not properly before the Board, as Ms. Ulfsten was not a party to the appeal and the appellant, Mr. Ganske, specifically stated that he did not intend to ask for costs. The Board also found that even if they had accepted the application, there was insufficient information provided to determine the reasonableness of the costs asked for and how the costs were related to the preparation and presentation of the arguments at the hearing.

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I. BACKGROUND

[1] On January 20, 2005, the Director, Northern Region, Regional Services, Alberta Environment (the “Director”), issued Approval No. 204916-00-00 (the “Approval”) under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (“EPEA”) to CCS Inc. (the “Approval Holder”) authorizing the construction, operation, and reclamation of the Bonnyville Waste Management Facility (the “Facility”), a Class II Industrial Landfill, located at NE 9-61-3-W4M, near Bonnyville, Alberta.

[2] On February 10, 2005, the Board received a Notice of Appeal from Mr. Ted Ganske (the “Appellant”) appealing the Approval.

[3] On February 11, 2005, the Board wrote to the Appellant, the Approval Holder, and the Director (collectively the “Parties”) acknowledging receipt of the Notice of Appeal and notifying the Approval Holder and the Director of the appeal. The Board also requested the Director provide the Board with a copy of the records (the “Record”) relating to this appeal, and asked the Parties to provide available dates for a mediation meeting or a hearing.¹

[4] In consultation with the Parties, the Board held a mediation meeting on April 27, 2005, in Bonnyville, Alberta. The mediation meeting did not result in the resolution of the appeal.

[5] Following the Board’s review of the Parties’ written submissions on the issues to be heard, the Board notified the Parties on June 15, 2005, of the issues that would be heard at the Hearing.²

¹ On March 3, 2005, the Board received a copy of the Record from the Director, and on March 8, 2005, forwarded a copy to the Appellant and the Approval Holder. During the course of the Hearing it became apparent that several documents were missing, in whole or in part, from the Record. The missing documents were provided to the Board and the other Parties during the course of the Hearing, and the Board is satisfied the Parties had a complete copy of the Record for the purpose of the Hearing.

² The issues identified were:

1. What effect, if any, will Approval No. 204916-00-00 issued to CCS Inc. for the construction, operation, and reclamation of the Bonnyville Waste Management Facility have on:
 - i. air quality;
 - ii. water quality;
 - iii. surface run-off;

[6] The Hearing was held on July 21, 2005, in Bonnyville, Alberta. Prior to receiving closing submissions from the Parties, the Board granted the Appellant's request for a site visit. The Hearing was adjourned pending the site visit.

[7] The Board visited the Facility on August 10, 2005. Immediately following the site visit, the Parties were given the opportunity to review a video recording made by the Board during the site visit. Following the review of the video recording, the Hearing reconvened to allow the Board to question the Parties and to receive closing arguments from the Parties. At the end of the Hearing, the Board asked the Parties whether they intended to apply for costs. The Appellant stated he would be making an application, but after the Director and the Approval Holder stated they would not be making a costs application, the Appellant stated he would not be asking for costs.

[8] The Board submitted its Report and Recommendations to the Minister, and on October 11, 2005, the Minister issued the Ministerial Order accepting the Board's recommendations.³

[9] On September 19, 2005, the Appellant wrote to the Board that when he withdrew his costs request at the Hearing, his intention was to withdraw his claim for costs for himself personally, but he did not intend to withdraw the request for costs with respect to the work undertaken by Ms. Ulfsten. He further clarified that it was still his and Ms. Ulfsten's intention to file an application for costs related to Ms. Ulfsten's work.

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- iv. drainage;
 - v. groundwater;
 - vi. wildlife and wildlife crossings;
 - vii. health; and
 - viii. noise?
2. What additional monitoring, if any, is required of the Bonnyville Waste Management Facility?

The Board advised the Parties it would not hear representations on land values or road safety, as these issues were not within the Board's jurisdiction.

³ See: *Ganske v. Director, Northern Region, Regional Services, Alberta Environment re: CCS Inc.* (9 September 2005), Appeal No. 04-090-R (A.E.A.B.).

[10] On October 18, 2005, the Board requested the Parties address the question “Whether the Board should consider Mr. Ganske’s cost application given the statements he made at the hearing,” in their costs submissions. The Board received the Appellant’s submission on November 4, 2005, and the Director and the Approval Holder provided their response submissions on November 22 and 25, 2005, respectively.

II. SUBMISSIONS OF THE PARTIES

A. Appellant

[11] Ms. Sally Ulfsten claimed costs for \$2,600.00. She stated she expected to be paid for five full working days at the Alberta Energy and Utilities Board (“AEUB”) prescribed paralegal rate of \$65.00 per hour. She explained this would cover her telephone bills for faxes to and from the Board and for the replacement of a roll of film for her fax.

[12] In her letter, Ms. Ulfsten confirmed that the Appellant was not asking for costs for his time spent at the Hearing, as he did not want it construed that he filed the appeal just for the money.

[13] Ms. Ulfsten stated she knew she would never get paid for all the time she spent preparing for the Hearing, and the time she should claim actually goes back to her attendance at the open house when she received a copy of the groundwater report. She explained that had she not requested the report and read it many months before the Appellant approached her to help in the appeal, she would not have known the Director’s Record was not complete.

[14] Ms. Ulfsten stated she “...will not waste any more of my time looking up times, dates and the so called necessary documentation you are requesting.”⁴

[15] Ms. Ulfsten stated she did not seek other sources of funding and the funds are not needed to meet any financial obligations. She argued she did a “...good job assisting the

⁴ Ms. Ulfsten’s letter, dated November 4, 2005.

Ganske's with this hearing and expect to be fairly paid. And this Board knows full well that I put much more effort (good faith) into these hearings than just three days...."⁵

B. Approval Holder

[16] The Approval Holder submitted Ms. Ulfsten, on behalf of the Appellant, did not provide sufficient information to justify awarding costs in this case. The Approval Holder stated the submission from Ms. Ulfsten did not contain detailed information on her role or the work undertaken in fulfillment of that role. It argued that without that fundamental information, there is no basis for an award of costs.

C. Director

[17] The Director explained the Appellant declined to seek costs at the Hearing, and based on this, the Board should not consider the costs application. He stated Ms. Ulfsten was present when the Appellant declined to seek costs at the end of the Hearing.

[18] The Director stated that, if the Board should entertain the costs application, then the Parties should bear their own costs; there are no special circumstances to award costs against the Director; and the Appellant failed to demonstrate the costs claimed were actually incurred by him.

[19] The Director referred to section 20(1) of the *Environmental Appeal Board Regulation*, Alta. Reg. 114/93 (the "Regulation"), and stated this section requires an application for costs be made at the conclusion of a hearing to provide all Parties certainty about all aspects of the appeal coming to an end.

[20] The Director argued the Appellant's change of mind does not comply with section 20(1) of the Regulation, and nothing in the Appellant's submission justifies the Board extending the time in which to request costs.

⁵ Ms. Ulfsten's letter, dated November 4, 2005.

III. ANALYSIS

A. Statutory Basis for Costs

[21] The legislative authority giving the Board jurisdiction to award costs is section 96 of EPEA which provides: “The Board may award costs of and incidental to any proceedings before it on a final or interim basis and may, in accordance with the regulations, direct by whom and to whom any costs are to be paid.” This section gives the Board broad discretion in awarding costs. As stated by Mr. Justice Fraser of the Court of Queen’s Bench in *Cabre*:

“Under s. 88 [(now section 96)] of the Act, however, the Board has final jurisdiction to order costs ‘of and incidental to any proceedings before it...’. The legislation gives the Board broad discretion in deciding whether and how to award costs.”⁶

Further, Mr. Justice Fraser stated:

“I note that the legislation does not limit the factors that may be considered by the Board in awarding costs. Section 88 [(now section 96)] of the Act states that the Board ‘*may* award costs ... and *may*, in accordance with the regulations, direct by whom and to whom any costs are to be paid...’” (Emphasis in the original.)⁷

[22] The sections of the Regulation concerning final costs provide:

“18(1) Any party to a proceeding before the Board may make an application to the Board for an award of costs on an interim or final basis.

- (2) A party may make an application for all costs that are reasonable and that are directly and primarily related to
- (a) the matters contained in the notice of appeal, and
 - (b) the preparation and presentation of the party’s submission. ...

20(1) Where an application for an award of final costs is made by a party, it shall be made at the conclusion of the hearing of the appeal at a time determined by the Board.

- (2) In deciding whether to grant an application for an award of final costs in whole or in part, the Board may consider the following:
- (a) whether there was a meeting under section 11 or 13(a);
 - (b) whether interim costs were awarded;

⁶ *Cabre Exploration Ltd. v. Alberta (Environmental Appeal Board)* (2000), 33 Admin. L.R. (3d) 140 at paragraph 23 (Alta. Q.B.).

⁷ *Cabre Exploration Ltd. v. Alberta (Environmental Appeal Board)* (2000), 33 Admin. L.R. (3d) 140 at paragraphs 31 and 32 (Alta. Q.B.).

- (c) whether an oral hearing was held in the course of the appeal;
 - (d) whether the application for costs was filed with the appropriate information;
 - (e) whether the party applying for costs required financial resources to make an adequate submission;
 - (f) whether the submission of the party made a substantial contribution to the appeal;
 - (g) whether the costs were directly related to the matters contained in the notice of appeal and the preparation and presentation of the party's submission;
 - (h) any further criteria the Board considers appropriate.
- (3) In an award of final costs the Board may order the costs to be paid in whole or in part by either or both of
- (a) any other party to the appeal that the Board may direct;
 - (b) the Board.
- (4) The Board may make an award of final costs subject to any terms and conditions it considers appropriate.”

[23] When applying these criteria to the specific facts of the appeal, the Board must remain cognizant of the purpose of EPEA. The purpose of EPEA is found in section 2 which provides:

“The purpose of the Act is to support and promote the protection, enhancement and wise use of the environment while recognizing the following:

- (a) the protection of the environment is essential to the integrity of ecosystems and human health and to the well-being of society;
- (b) the need for Alberta's economic growth and prosperity in an environmentally responsible manner and the need to integrate environmental protection and economic decisions in the earliest stages of planning;
- (c) the principle of sustainable development, which ensures that the use of resources and the environment today does not impair prospects for their use by future generations;
- (d) the importance of preventing and mitigating the environmental impact of development and of government policies, programs and decisions;
- (e) the need for Government leadership in areas of environmental research, technology and protection standards;
- (f) the shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual actions;
- (g) the opportunities made available through this Act for citizens to provide advice on decisions affecting the environment;

- (h) the responsibility to work co-operatively with governments of other jurisdictions to prevent and minimize transboundary environmental impacts;
- (i) the responsibility of polluters to pay for the costs of their actions;
- (j) the important role of comprehensive and responsive action in administering this Act.”

[24] While all of these purposes are important, the Board believes the shared responsibility that section 2(f) of EPEA places on all Albertans “...for ensuring the protection, enhancement and wise use of the environment through individual actions...” is particularly instructive in making its costs decision.

[25] As stated in previous appeals, the Board evaluates each costs application against the criteria in EPEA and the Regulation. As stated by the Board in *Cabre* costs decision:

“To arrive at a reasonable assessment of costs, the Board must first ask whether the Parties presented valuable evidence and contributory arguments, and presented suitable witnesses and skilled experts that:

- (a) substantially contributed to the hearing;
- (b) directly related to the matters contained in the Notice of Appeal;
and
- (c) made a significant and noteworthy contribution to the goals of the Act.

If a Party meets these criteria, the Board may award costs for reasonable and relevant expenses such as out-of-pocket expenses, expert reports and testimony or lost time from work. A costs award may also include amounts for retaining legal counsel or other advisors to prepare for and make presentations at the Board’s hearing.”⁸

[26] Under section 18(2) of the Regulation, costs awarded by the Board must be “directly and primarily related to ... (a) the matters contained in the notice of appeal, and (b) the preparation and presentation of the party’s submission.” These elements are not discretionary.⁹

[27] The Board has generally accepted the starting point that costs incurred in an appeal are the responsibility of the individual parties.¹⁰ There is an obligation for each member of the public to accept some responsibility of bringing environmental issues to the forefront.¹¹

⁸ Costs Decision re: *Cabre Exploration Ltd.* (26 January 2000), Appeal No. 98-251-C at paragraph 9 (A.E.A.B.) (“*Cabre*”).

⁹ *New Dale Hutterian Brethren* (2001), 36 C.E.L.R. (N.S.) 33 at paragraph 25 (Alta. Env. App. Bd.), (*sub nom. Cost Decision re: Monner*) (17 October 2000), Appeal No. 99-166-CD (A.E.A.B.).

¹⁰ *Paron* (2002), 44 C.E.L.R. (N.S.) 133 (Alta. Env. App. Bd.), (*sub nom. Costs Decision: Paron et al.*) (8

B. Discussion

[28] Before the Board can consider the actual costs application, it must first determine whether the application is properly before the Board. In this case, the Appellant, Mr. Ted Ganske, clearly stated at the end of the Hearing, as well as in further conversations after the Hearing and in Ms. Ulfsten's costs application that he did not intend to claim costs. He made this decision in response to statements by the other Parties that they would not be requesting costs, and the Board accepted this.¹² However, it appears he was under the impression that even though *he* did not intend to file a costs application, Ms. Ulfsten's ability to claim for costs was not forfeited and that she should be able to claim costs for the work she had undertaken on his behalf.

[29] Section 10 of the Regulation states that a party to an appeal may apply for costs, but it does not say that a representative of a party who does not apply for costs has the ability to file their own application. Sections 18 and 20 of the Regulation state:

“18(1) Any party to a proceeding before the Board may make an application to the Board for an award of costs on an interim or final basis.

(2) A party may make an application for all costs that are reasonable and that are directly and primarily related to

(c) the matters contained in the notice of appeal, and

(d) the preparation and presentation of the party's submission. ...

20(1) Where an application for an award of final costs is made by a party, it shall be made at the conclusion of the hearing of the appeal at a time determined by the Board.”

[30] The Parties in this appeal were the Approval Holder, the Director, and the Appellant. The Appellant in this case was Mr. Ted Ganske. Ms. Ulfsten was there to act as his

February 2002), Appeal Nos. 01-002, 01-003 and 01-005-CD (A.E.A.B.).

¹¹ Section 2 of EPEA states:

“(2) The purpose of this Act is to support and promote the protection, enhancement and wise use of the environment while recognizing the following: ... (f) the shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual actions....”

¹² See: *Ganske v. Director, Northern Region, Regional Services, Alberta Environment re: CCS Inc.* (9 September 2005), Appeal No. 04-090-R (A.E.A.B.) at paragraph 184, which states:

“Before the close of the Hearing, the Appellant, the Approval Holder, and the Director each declined to reserve the right to apply for costs. Therefore, no costs shall be awarded in this appeal.”

agent and to assist in the presentation of his arguments and in cross-examining the Director and Approval Holder. Ms. Ulfsten was not a Party to the appeal; she was the Appellant's representative. It is clear by the legislation that a "party" to an appeal can claim for costs. As Ms. Ulfsten was not a Party in this appeal, she is not entitled to file a costs claim on her own behalf and, therefore, the Board must deny the costs application.

[31] There was no indication in any of the documentation the Appellant was required to reimburse Ms. Ulfsten. In fact, considering the comments made by the Appellant, it appears Ms. Ulfsten graciously agreed to assist the Appellant without cost.

[32] At the end of the Hearing, the Appellant clearly indicated he did not intend to ask for costs. He later stated it was his own personal costs that he was not asking for. If Ms. Ulfsten had expected the Appellant to reimburse her, it would most likely have been a cost that the Appellant would have asked to be considered in a costs application.

[33] While the Appellant later contacted the Board and indicated that an application would be made for costs with respect to Ms. Ulfsten, it remained clear in this conversation that it was not going to be the Appellant asking for costs, but it would be Ms. Ulfsten. This was confirmed in the letter that was received from Ms. Ulfsten as an application for costs. It was not an application for costs on behalf of the Appellant, asking for assistance in paying an invoice for the services provided by Ms. Ulfsten. It was a request for costs by Ms. Ulfsten. While the Board recognizes that Ms. Ulfsten was assisting the Appellant in presenting his appeal, the Board is not being asked to reimburse the Appellant for any expenses he incurred. There is no indication the Appellant was asked to pay anything.

[34] Ms. Ulfsten has appeared before the Board previously. She is aware of the Board's process and she should be aware of the difference between the Board and the AEUB when awarding costs. There is not an automatic right to costs before the Board as there is before the AEUB. In Ms. Ulfsten's application, it seems that she is confusing the AEUB costs process with the process used by the Board. The AEUB has a process where all reasonable costs are payable to the applicant. It is clear Ms. Ulfsten believes this is the process being followed when she states, "I expect to be paid..." and then goes on to refer to the AEUB guideline for paralegals. Costs before the Board are a reward for assisting the Board in reaching its

conclusions and recommendations and for promoting the public interest. The Board does not follow the same legislation as the AEUB when it comes to costs, and the Board is bound by the legislation that it operates under.

[35] At the end of the Hearing, all of the Parties were explicitly asked if any of them were reserving their right to claim for costs. All of the Parties, including the Appellant, declined their right. The Board notes that the Appellant, when first asked at the close of the Hearing, stated he would be seeking costs, but when the Approval Holder and the Director declined their right, the Appellant clearly stated that he then would also not be seeking costs. It was not until after the close of the Hearing that Ms. Ulfsten stated she would be seeking costs for her participation in the appeal process.

[36] One of the reasons the Board asks parties at the end of the hearing who wants to reserve their right to claims costs is to provide the other parties involved an indication of forthcoming claims. It provides some element of certainty into the process if the parties are aware that there would be no future costs claims. The Board strives to be fair to all parties involved, from the appellant to the approval holder to the Director. It would not be fair to the other Parties to suddenly allow costs claims after it was clearly stated that the Appellant was not intending to claim costs.

[37] Even if the Board had found the application to be properly before the Board, it would not award costs. First, insufficient information has been provided to support a costs application. Second, while Ms. Ulfsten was likely of assistance to the Appellant in presenting his case, the Board does not believe that she was of assistance in helping the Board make its decision. The Board did not accept any of the evidence respecting the Appellant's substantive arguments. While success or failure by a party in an appeal is not determinative of costs, what is a significant factor is to what degree the submissions and presentation helped inform the Board to assist in making its decision.

[38] Ms. Sally Ulfsten claimed costs totaling \$2,600.00 for time spent on preparing for the Hearing. Ms. Ulfsten did not provide any further breakdown of the costs claimed other than she spent three days preparing for the Hearing and two days attending at the Hearing for a total

of 40 hours. She valued her time as \$65.00 per hour, the rate accepted by the AEUB for a paralegal.

[39] In the Board's October 18, 2005 letter, the Board specifically stated that:

“In considering applications for final costs, the Board requires a motion that clearly outlines the actual costs incurred in the preparation of the party's submission. Where possible, invoices, receipts and other necessary documentation should be attached. A detailed breakdown of all costs should be provided.”

[40] There was no documentation provided to demonstrate that Ms. Ulfsten is, in fact, a paralegal. She referred to her curriculum vita that was provided many years ago in a hearing held by the AEUB in conjunction with a different facility. The Board does not have access to this information. The AEUB and this Board are two distinct entities, and even though the information may have been provided to the AEUB, it is not part of the Director's record or the Board's record. The Board asks for documentation to support a costs application in order to have a complete understanding of the costs application. If Ms. Ulfsten had provided this information, it could have put into context the rate she requested to be reimbursed in her costs application.

[41] The purpose of a costs award is to recognize the input provided to the Board in its decision making. It is not intended as an opportunity for financial reward. The Board requests documentation to ensure the costs claimed are legitimate costs for preparing and presenting arguments and submissions for the Hearing. Ms. Ulfsten did not consider it necessary to take time to look up specific dates and information. The Board is not asking for documentation to make it more difficult for an applicant; it requires the information to ensure costs, if awarded, are awarded fairly for the applicant and the party required to pay. Costs awards are not intended to financially benefit any party. Costs are awarded only to offset some portion of the actual costs expended in the preparation and presentation of the person's evidence before the Board. For Ms. Ulfsten to justify a claim for 40 hours at \$65.00 per hour as a bona fide costs, she would need to provide some evidence that the time she devoted to this Hearing precluded her from earning equivalent income in an alternate activity.

[42] Every opportunity was afforded to Ms. Ulfsten, through the Appellant, to request out-of-pocket expenses. However, no request was made. Had she invoiced these costs to the

Appellant, and the Appellant reserved his right to claim costs at the end of the Hearing, the Board may have considered compensation for some of the actual out-of-pocket expenses encountered. However, as it appears the Appellant was not responsible for any costs and no documentation was provided to support the costs application, the Board would not have awarded costs in this case.

[43] There would have to be compelling reasons for the Board to consider a right to ask for costs after the close of the Hearing. As stated in the Board's decision, *Gadd v. Director, Central Region, Regional Services, Alberta Environment re: Cardinal River Coals Ltd.*¹³:

“In order for the Board to consider a costs application after a party states they are not seeking costs would require compelling reasons. It would not be fair to the other parties to suddenly declare that they now want costs as it introduces uncertainty into the process. Parties must realize that, if they do reserve their right to costs, there is no penalty in not submitting a costs application when asked to do so by the Board after the Minister has released his decision.”¹⁴

[44] Essentially, Ms. Ulfsten is asking the Board to treat her costs request as though she was an appellant in the appeal. Ms. Ulfsten did not file a Notice of Appeal and at no time did the Board grant her party status. She was the agent of the Appellant, Mr. Ganske, in the appeal process. Legal counsel that appear on behalf of clients provide invoices that are billed to their clients, clearly indicating the hours spent on the file and the work completed in support of the appeal. Ms. Ulfsten provided no documentation that she intended to charge the Appellant for her assistance. There is no indication the Appellant was out of pocket for any expenses. It is the party that is awarded costs, not any person appearing on behalf of the party. If she had been a party to the appeal, she would not have been entitled to claim a professional fee for her time spent on her own behalf. There is an expectation that appellants as well as approval holders have a direct interest in the outcome of the hearing, and they should be willing to invest their own time in the proceeding.

[45] As no costs application was submitted on behalf of the Appellant for costs he incurred, the Board will not grant the costs application submitted by Ms. Ulfsten. Even if the

¹³ Costs Decision: *Gadd v. Director, Central Region, Regional Services, Alberta Environment re: Cardinal River Coals Ltd.* (16 December 2005), Appeal Nos. 03-150, 151 and 152-CD (A.E.A.B.).

¹⁴ Costs Decision: *Gadd v. Director, Central Region, Regional Services, Alberta Environment re: Cardinal River Coals Ltd.* (16 December 2005), Appeal Nos. 03-150, 151 and 152-CD (A.E.A.B.) at paragraph 79.

Board had accepted the costs application, it would not have granted costs in this case as there was no indication the Appellant actually incurred any costs and Ms. Ulfsten failed to provide any documentation to support a costs application.

IV. CONCLUSION

[46] Based on the submissions provided and for the above reasons, the Board finds the costs application is not properly before it, and therefore, no costs can be awarded in this appeal.

Dated on January 29, 2007, at Edmonton, Alberta.

“original signed by”

Dr. Steve E. Hrudehy, FRSC, PEng
Chair

“original signed by”

Mr. Jim Barlishen
Board Member