

Source name

The Globe and Mail

Source type

Press • Newspapers

Periodicity

Daily

Geographical coverage

National

Origin

Toronto, Ontario, Canada

Environmental groups might ignore orders from Kenney inquiry

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CALGARY - Leading environmental groups are unsure if they will respond to demands to explain their sources of revenue to Alberta's inquiry into foreign funding of anti-energy campaigns.

Last week, the inquiry served 40 organizations - including the Pembina Institute and Greenpeace Canada - with notice that their names have been caught up in its probe, and gave them less than a month to explain themselves. Legal experts and critics say it's further evidence of a deeply flawed process that is ultimately doing more harm than good to Alberta's energy sector.

The inquiry came from a 2019 election campaign promise by Premier Jason Kenney, who alleged Alberta's oil sector had been the target of a foreign-funded campaign to malign the industry. Led by forensic accountant Steve Allan, the inquiry's \$2.5-million budget has increased by \$1-million, despite missing repeated deadlines.

The Pembina Institute, an environmental think tank based in Alberta, received a notice from the commissioner late Friday.

It landed in the inbox of a staff member who has never been directly involved with the inquiry.

Mr. Kenney singled out Pembina repeatedly during the election when he promised the multimillion-dollar inquiry. Yet between 2006 and 2018, the think tank received less from international grants than from oil and gas companies that have contracted the institute to help find environmental solutions - \$5-million compared with \$5.2-million.

The institute "is more Canadian, and gets more Canadian funding, than the companies we interact with," Pembina's deputy executive director Simon Dyer said in an interview, adding it raises a fairness issue.

"International engagement is fine when you're talking about corporate dollars, but it's not fine when it's talking about environmental policies? It doesn't make sense," he said.

"A lot of the solutions when the government or industry brags about environmental performance of the oil sands industry, these are issues that were first raised in solutions advocated by Pembina."

For example, a 2006 Pembina report argued Alberta's oil sands should consider becoming carbon neutral if they wanted to remain competitive. Fast forward to two weeks ago, when oil sands producers announced a new alliance that will see them work collectively to achieve net-zero greenhouse gas emissions by

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2050.

The inquiry, Mr. Dyer said, is a distraction from those kinds of important conversations about how the energy sector can prosper and diversify in a changing market.

"This just feels like relitigating issues that we talked about 15 years ago," he said. "It just looks obsolete, out of place, serves no value and is actually sort of damaging to Alberta's reputation."

He's not yet sure whether Pembina will respond to Mr. Allan, especially given the commissioner's letter says any finding "does not in any way suggest that the activities on which I might base a finding have been unlawful or dishonest."

Greenpeace Canada also received a notice from the commissioner and is yet to decide whether it will respond. The charity landed \$2.9-million in foreign donations between 2007 and 2018 for oil sands campaigns - just more than 2 per cent of the charity's total revenue. Yet it received \$5.6-million from Albertans over the same period.

"The whole notion that this is anti-Alberta? Actually, there are a lot of Albertans who like what we do and support environmental groups because of their concerns over climate change, and concerns over the rate and pace of expansion of the oil sands," Greenpeace spokesperson Keith Stewart said in an interview.

The public inquiry itself is keeping secret the names of the organizations in Canada and the United States that were served notice. It also told the groups that evidence collected about them must be kept confidential - even though the inquiry acknowledged it has all been gath-

ered from public sources of information such as websites, public statements and filings.

Alan Boras, spokesperson for Mr. Allan, told The Globe and Mail the names of organizations and information gathered about them are confidential "to preserve fairness, and ensure no reputational impact of being named before having an opportunity to respond."

The inquiry's mandate is to examine the foreign funding of "anti-Alberta energy campaigns."

The notices largely target environmental organizations, which counter that money they get from foreign foundations is a drop in the bucket compared with Canadian donations.

The inquiry has been conducted almost entirely in private. Mr. Allan has had no public hearings and has said very little publicly about his work.

Between the lack of transparency and the fact organizations have less than a month to respond to the inquiry, University of Alberta law professor Matthew Lewans says "nothing about this public inquiry seems normal."

Paul Daly, University of Ottawa's research chair in administrative law and governance, has fewer problems with the opaque nature of the inquiry. After all, "an inquiry is a master of its own procedure, as long as it respects the rules of procedural fairness," he says.

"They don't have to do everything in public, but they can't be cloak and dagger either," he says.

"It's a public inquiry, it's not trial by ambush."

And while Prof. Lewans reckons the one-month response window could well present a problem when it comes to procedural fairness guaranteed under Alberta's Public Inquiries Act, Dr.

Daly says the appropriate timeline depends on how much information the inquiry presents to organizations, and how deep they must dive into their own records to counter any allegations.

With each organization permitted 30 pages to respond with arguments and evidence, that will give Mr. Allan just 14 days to read and consider up to 1,200 pages of documents, factor them into his conclusions and incorporate them into his final report to Energy Minister Sonya Savage.

Mr. Boras wouldn't say whether Mr. Allan will request a fifth extension for the inquiry, but said the commissioner expects he will have time to review the responses and complete the final report for its July 30 deadline.