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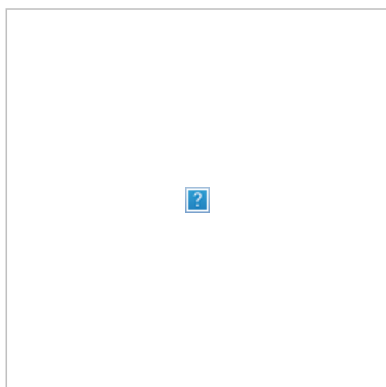
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ForestEthics



What Happened

In 2012 Andrew Frank, former staff of ForestEthics, alleged that staff within the Prime Minister's office had labeled ForestEthics an "enemy of the people of Canada" and threatened to jeopardize its funding relationship with Tides Canada, a charitable foundation. Frank alleges that this accusation and subsequent threat occurred in response to ForestEthics' vocal opposition to the Enbridge Northern Gateway Pipeline proposal, and tar sands development more generally.

ForestEthics is a not-for-profit organization dedicated to the preservation of the environment. It works to preserve forests, wild places and wildlife, and opposes further expansion of Canada's tar sands. At the time of the events described below, ForestEthics described itself as a charitable project of **Tides Canada**, a charitable umbrella organization that funds a number of environmental and social justice organizations.

On January 23, 2012, Andrew Frank, former Senior Communications Manager for ForestEthics Canada, **blew the whistle** on the federal government's alleged treatment of Tides Canada and ForestEthics. Frank alleges that officials in the Prime Minister's Office (PMO) **referred to** ForestEthics as an "enemy of the Government of Canada" and an "enemy of the people of Canada" in a meeting with officials from Tides Canada. According to Frank, PMO officials were referring to ForestEthics' opposition to the **Enbridge Northern Gateway Pipeline** proposal and tar sands development more generally.

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Tactics

- Charitable status attacked/revoked
- Defunding
- Fired or forced resignation
- Harassment/Privacy violation
- Information Withholding
- Interference with independent institutions
- Surveillance

Frank issued an affidavit further **alleging** that in that same meeting, a representative of the Prime Minister's Office threatened to revoke Tides Canada's charitable status if it continued to provide funding to ForestEthics. According to Frank, this threat was part of an extensive campaign by the federal government to monitor and restrict the advocacy work of environmental charities.

In Frank's **view**, "Canadian citizens will be shocked to learn that their own government is labeling critics of the Enbridge oil tanker/pipeline project as 'enemies of the Government of Canada.' When a government starts labeling its own citizens 'enemies,' it has lost its moral authority to govern."

In March 2012, the federal government issued its **budget**, which **significantly reduced** the operating budgets of several projects with an environmental mission, while at the same time, allocating 8 million dollars to the Canada Revenue Agency (CRA) for the purpose of increasing scrutiny of environmental charities.

CRA "political audits"

In May 2012, the CRA **launched** an audit of Tides Canada. The CRA's objective was to determine whether or not Tides Canada had complied with CRA's rules that limit political activities. According to subsections 149.1 (6.1) and (6.2) of the **Income Tax Act**, a registered charity must devote "substantially all" of its resources towards its charitable purpose, but it is permitted to devote some of its resources towards political activities as long as they are "ancillary and incidental" to its charitable purposes. The CRA **interprets** "substantially all" as a minimum of 90 per cent for most charities. Hence, generally speaking, a charitable organization is permitted to devote no more than 10 per cent of its resources to "political activities."

Frank alleges that the government's hostility to ForestEthics was primarily due to its vocal opposition to the Enbridge Northern Gateway pipeline proposal and its status as a registered intervenor in the National Energy Board's Joint Review Panel of the proposed project. Frank **believes** that the Prime Minister's Office pressure tactics are a potentially illegal interference in the review process. Frank notes that the **Joint Review Panel** was the federal government's official mode of consultation with First Nations groups with regard to the pipeline proposal, and that consultation is legally required to be done in "good faith". In Frank's view, the government's treatment of ForestEthics, a participant in this process, is inconsistent with the government's good faith obligations to the process itself. As a result, Frank believes that his allegations might be relevant to any future legal challenges to the federal government's pipeline consultation process, especially with First Nations.

PMO denies

The Prime Minister's Office **denied** that it made any of the statements outlined in Frank's affidavit. However, **the Globe and Mail** reported that, "A PMO official articulated the Harper government's view of Canada's national interest – which includes supporting Gateway – and pointed to ForestEthics as an example of a group acting against the government of Canada and the people of Canada."

Frank fired

Following his public disclosures, Frank was fired from his position with ForestEthics in late January 2012. According to Frank, Tides Canada and ForestEthics feared that his disclosure

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would provoke further government restrictions on environmental charities through reprisals and intimidation. Frank **states** that Tides Canada CEO, Ross McMillan, viewed Frank's actions as "blowing up a bomb in your own house."

ForestEthics responds

In April 2012, ForestEthics **decided to** terminate its charitable status in order to dedicate its efforts towards advocacy work without further scrutiny from the CRA. ForestEthics announced on its website, "Our new nonprofit status means we are in a unique position to act against the Federal Government's bullying tactics because we are NOT limited to the 10 per cent advocacy threshold." ForestEthics then launching its "**We Will Not Be Silenced**" campaign, which focuses on the Enbridge pipeline proposal. This campaign urges Canadians to stand up to government threats against "voices that oppose their agenda."

ForestEthics took further action against the Harper government the following year. In August 2013, the organization **launched** a lawsuit against the federal government and the National Energy Board on the grounds that the government, in enacting new public participation rules at NEB hearings, had violated section 2(b) of the *Canadian Charter of Rights and Freedoms*. ForestEthics argues that the new rules severely restrict who can participate in public hearings and what they can say about proposed pipeline projects. The Enbridge Line 9b pipeline proposal, which aimed to reverse the flow of conventional oil to carry tar sands crude instead, was the first pipeline project to fall under the new public participation rules.

Specifically, ForestEthics is challenging the statute that enacted the new rules – **section 55.2 of the National Energy Board Act**. It was enacted into law under omnibus budget Bill C-38 in June 2012. Section 55.2 of the *National Energy Board Act* now **limits** public participation on proposed pipeline projects to "interested parties," which is defined as individuals directly affected by the project or individuals with relevant expertise. Such restrictions make it difficult for most Canadians to provide input on pipeline projects. For the Enbridge Northern Gateway pipeline project, a total of **11,111 parties** provided feedback on the proposal. Under the new rules, however, only **172 parties** were able to provide input on the Enbridge Line 9b pipeline proposal. The federal government **maintains**, however, that these new restrictions on public participation were "necessary to stop environmental groups...from abusing the system to stall projects with a flood of public interventions."

Relevant Dates:

- **January 23 2012:** Andrew Frank publically **releases** a sworn affidavit, alleging government tactics to intimidate Tides Canada and silence ForestEthics' opposition to the Enbridge Northern Gateway Pipeline Proposal.
- **January 2012:** Andrew Frank is **fired** from his position at ForestEthics after vowing to reveal that the PMO was pressuring Tides to terminate its funding relationship with ForestEthics.
- **April 2012:** ForestEthics **sheds** its charitable status to engage in advocacy work freely without government restrictions.
- **August 2013:** ForestEthics **files a lawsuit** against the federal government and the National Energy Board. ForestEthics alleges that recent changes to the rules that govern public hearings on proposed energy projects are unconstitutional because they limit public participation and violate the free speech rights of all Canadians.

- **January 2014:** Other environmental organizations, including Living Oceans Society and the Raincoast Conservation Foundation, join ForestEthics in [filing suits](#) against the federal government claiming that the Joint Review Panel has failed to consider the adverse environmental effects of the Northern Gateway project.

Role or Position

Established in 2000, [ForestEthics](#) is a non-profit environmental organization with offices in the United States and Canada. It aims to protect endangered forests and wild places, wildlife and human well-being. It also seeks to bring about change in environmental leadership among industry, governments and communities by running [effective and hard-hitting campaigns](#) that leverage public dialogue and pressure.

Implications and Consequences

- **Free Speech:** Frank has made serious allegations that the federal government threatened Tides Canada's charitable status in an effort to silence ForestEthics' critiques of the Northern Gateway pipeline project proposal. Intimidation and reprisals against environmental organizations that oppose the development of the Alberta tar sands risk generating a chilling effect on the free speech of these organizations. This form of intimidation may also create a climate of fear, pressure, censorship and conflict within organizations. In this case, Frank was fired from his position at ForestEthics after he went public with his allegations.
- **Democracy:** The alleged treatment of Tides Canada and ForestEthics casts doubt on the federal government's commitment to fostering diverse debate on the Enbridge Northern Gateway pipeline project. These allegations are concerning because they relate to the participation of ForestEthics in the National Energy Board's review of the proposed pipeline. Government pressure of this nature on a registered intervenor would limit that organization's ability to participate freely in the review process. If organizations are afraid to participate, this would cast doubt on the integrity of the process and the capacity of the Joint Review Panel to take all evidence, perspectives and concerns into account. Recent amendments to the National Energy Board Act, which restrict public participation in public hearings on pipeline projects, are consistent with these doubts. The recent Canada Revenue Agency recent audit of Tides Canada, together with a large number of other environmental organizations, points to the possibility of a federal campaign against the environmental sector.
- **Transparency:** If the government engages in intimidation tactics against environmental organizations, such as those alleged here, it may be very difficult to document and disclose these practices to the public. In this case, an individual employee of an environmental group (Andrew Frank) publically made such allegations, but at tremendous personal cost. Frank's experience is an example of the circumstances in which privately employed individuals may have less protection than public employees who blow the whistle on government action.

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Logo from [ForestEthics](#).

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