



Administrative Monetary Penalty / Sanction administrative pécuniaire
NOTICE OF VIOLATION / AVIS D'INFRACTION

REFERENCE NUMBER / N° DE REFERENCE: AMP-003-2014

Information for Pipeline Company / Third Party / Individual:
Information pour la société pipelinière / une tierce partie / un particulier :

Name / Nom :	Trans Mountain Pipeline ULC	TOTAL PENALTY AMOUNT / MONTANT TOTAL DES PÉNALITÉS:
Contact / Contactez:	Ian Anderson	
Title / Titre:	President	
Address / Adresse:	300 - 5th Avenue SW Suite 2700	\$16,000
City / Ville:	Calgary	Date of Notice / Date de l'Avis:
Province / State / État	Alberta, T2P 5J2	02 July, 2014
Telephone / Téléphone:		Regulatory Instrument # / N° de l'instrument réglementaire:
Fax / Télécopieur:		XO-T260-009-2013
E-mail / Courriel:	██	

On / Le 14 April 2014

TRANS MOUNTAIN PIPELINE ULC

was observed to be in violation of a NEB regulatory requirement. This violation is subject to an administrative monetary penalty, as outlined below.

a commis une infraction aux exigences réglementaires de l'ONÉ, sujet à la sanction administrative pécuniaire ci-dessous.

1. VIOLATION DETAILS / RENSEIGNEMENTS SUR L'INFRACTION**Date of Violation / Date d'infraction :**

(from / du): 14 April 2014

(to / au): 14 April 2014

Total Number of Days / Nombre total de jours:

1

Has compliance been achieved?**La situation est-elle rétablie?** Yes / Oui No / NonIf no, a subsequent NoV may be issued.
Si non, un autre avis d'infraction pourrait être envoyé.**Location of Violation / Lieu de l'infraction:***e.g. Facility/plant/head office or nearest geographical point or lat/long / ie: usine/siege central/lieu géographique* Nipisi Facility Piping at the TransMountain Edmonton Terminal**Short Form Description of Violation / Description abrégée de l'infraction**
(Refer to Schedule 1 of the AMP Regulations) / (Voir l'annexe 1 du Règlement)**Provision and Short-form Description / Disposition et Sommaire***Choose an item / Choisir*

Choose an item / Choisir

Contravention of an Order or Decision made under the Act (ss. 2(2) of the AMP Regulations)*Failure to comply with a term or condition of any certificate, licence, permit, leave or exemption granted under the Act (ss. 2(3) of the AMP Regulations)*

Non-compliance with Condition 2 of Order XO-T260-009-2013

2. RELEVANT FACTS*Briefly describe reasonable grounds to believe a violation has occurred / Décrire brièvement les motifs raisonnables de croire qu'une infraction a été commise*

1 - On 26 April 2013, the Board issued Order XO-T260-009-2013 (Order) under s. 58 of the National Energy Board Act (the Act) granting approval for the pipeline construction at Trans Mountain's Edmonton Terminal to facilitate the connection of Pembina's Nipisi pipeline.

2 - On 14 April 2014, Trans Mountain filed a Leave to Open Application (LTO) for the Nipisi Facility Piping, pursuant to s. 47 of the Act. Upon review of the Application, Board staff noted that the final design and construction of the Project, as described in the LTO Application, was different than the design that was approved in the Order. Specifically, Trans Mountain indicated in the LTO Application that during detail design, the diameter and wall thickness of the pipe was reduced. Trans Mountain did not construct the Project in accordance with specifications, standards and other information referred to in its Application as per Condition 2, and noted in Schedule A of the Order. In addition, the company did not notify or request approval from the Board under section 21 of the Act for the design changes prior to commencing or completing construction. Board staff notified Trans Mountain of the discrepancies and the company acknowledged that a variance should have been requested.

3 - Board staff assessed the LTO Application and determined that the changes were minor in nature and that the station could be operated safely despite the changes. On 8 May 2014, the Board sent a letter to Kinder Morgan on behalf of Trans Mountain stating non-compliance with Condition 2 of the Order, issuing amending Order AO-001-XO-T260-009-2013 and granting leave to open the Nipisi Facility Piping.

4 - On 6 June 2014, NEB staff sent an informal information request to Trans Mountain requesting an explanation as to why an application under s. 21 of the NEB Act was not submitted and what preventive actions were taken to prevent reoccurrence.

5 - On 13 June 2014, Trans Mountain provided a response to the informal information request. They explained that, given the design change,

an application under s. 21 of the Act was appropriate but was overlooked. Trans Mountain stated it has continuous improvement processes and systems in place to evaluate and address these issues on a timely basis. As part of its management system and Quality Assurance processes, monitoring processes are in place to alert personnel of legal and regulatory developments. Trans Mountain is continuing to look at ways to ensure that going-forward, similar process errors can be avoided.

3. PENALTY CALCULATION / CALCUL DES SANCTIONS

(a) BASELINE PENALTY (Gravity Value = 0) / PÉNALITÉ DE BASE (côte de gravité = 0)

Category / Catégorie	(Type A)	Individual / Personne physique	Any Other Person / Autre Personne
		<input type="checkbox"/> \$1,365	<input type="checkbox"/> \$5,025
	(Type B)	<input type="checkbox"/> \$10,000	<input checked="" type="checkbox"/> \$40,000

[Refer to *AMP Regulations*, Subsection 4(1) / Voir le *Règlement*, paragraphe 4(1)]

(b) APPLICABLE GRAVITY VALUE / COTE DE GRAVITE GLOBALE APPLICABLES

[Refer to *AMP Regulations*, Subsection 4(2) / Voir le *Règlement*, paragraphe 4(2)]

	Mitigating / Atténuer			Aggravating / Aggravantes		
	-2	-1	0	+1	+2	+3
<input checked="" type="checkbox"/> Other violations in previous seven (7) years / Autres infractions au cours des sept (7) années précédentes	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Any competitive or economic benefit from violation / Avantages concurrentiels ou économiques découlant de l'infraction	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Reasonable efforts to mitigate / reverse violation's effect / Efforts raisonnables déployés pour atténuer ou annuler les effets de l'infraction	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Negligence on part of person who committed violation / Négligence de la part de la personne ayant commis l'infraction	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Reasonable assistance to Board with respect to violation / Collaboration raisonnable avec l'Office en ce qui a trait à l'infraction	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
Trans Mountain provided all the necessary information in their LTO Application and the NEB's informal information request. Based on the assessment of the Application, Board staff determined that the changes to the Project were minor and did not have an impact on the safety of the people or the environment.						
<input checked="" type="checkbox"/> Promptly reported violation to Board / Infraction signalée sans délai à l'Office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
In their LTO Application, Trans Mountain identified the design changes to the Project. However, the company did not notify the Board of the proposed changes to the design of the Project before construction, nor was a variance requested under s. 21 of the Act. The violation was discovered when NEB staff reviewed the LTO Application.						
<input checked="" type="checkbox"/> Steps taken to prevent reoccurrence of violation / Mesures prises pour prévenir les récidives	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--

Trans Mountain has continuous improvement processes and systems in place to evaluate and address these issues on a timely basis. As part of its management system and Quality Assurance processes, monitoring processes are in place to alert personnel of legal and regulatory developments. Trans Mountain is continuing to look at ways to ensure that going-forward, similar process errors can be avoided. In 2014, as part of their Quality Assurance Processes, this matter has been raised with key Project Managers and will be tabled at their next meeting. In

addition, a review to change management documents and key processes will take place to ensure that the information contained within policies and procedures is up-to-date to ensure that regulatory applications are complete, accurate and thorough, and to outline steps required to undertake in the event of design changes over the course of a project. The current target to complete this review and implement changes is January 2015.

Violation was primarily reporting / record-keeping failure / Infraction -- -- --
 reliée principalement à la production de rapports ou à la tenue des dossiers

* insert additional information, as required *

Any aggravating factors in relation to risk of harm to people or
 environment / Facteurs aggravants pouvant causer du tort au public ou à
 l'environnement

* insert additional information, as required *

(c) TOTAL GRAVITY VALUE / COTE DE GRAVITÉ GLOBALE -2

(d) DAILY PENALTY / SANCTIONS QUOTIDIENNES
 (The baseline penalty, adjusted for the final gravity level) \$ 16,000
 (Pénalité de base d'après la côte de gravité)

(e) NUMBER OF DAYS OF VIOLATION / DURÉE DE L'INFRACTION
 (If more than one day, then the justification must be provided.) 1
 (Si plus d'une journée, prière de justifier.)

Notes to explain decision to apply multiple daily penalties, or "Not Applicable" / Notes pour expliquer la décision d'appliquer des pénalités multiples quotidiennes, ou «sans objet»

4. TOTAL PENALTY AMOUNT / MONTANT TOTAL DE LA PÉNALITÉ	\$ 16,000
<p>Note: The total penalty amount shown is based on the period described in Step 1 above. If compliance has not been achieved, a subsequent Notice of Violation may be issued. Le montant total de la pénalité est calculé d'après la période décrite à l'étape 1 ci-dessus. Si la situation n'a pas été rétablie, un autre avis d'infraction pourrait être envoyé.</p>	
5. DUE DATE (30 days from receipt of Notice of Violation)	05 August, 2014
DATE LIMITE (30 jours à compter de la réception de l'Avis d'infraction)	

Notes

You have the right to make a request for a review of the amount of the penalty or the facts of the violation, or both, within 30 days after the Notice of Violation was received.

If you do not pay the penalty nor request a review within the prescribed period, you are considered to have committed the violation and you are liable for the penalty set out in the Notice of Violation. The penalty is due on the date indicated above.

The unpaid penalty amount is a debt due to the Crown and may be recovered by collection procedures stipulated in the *Financial Administration Act*.

The information regarding the violation may be posted on the NEB website:

- a) 30 days from the date this Notice of Violation was received
- or;
- b) upon issuing a decision following a Request for Review.

To Make Payment:

You may remit your fee payment by Electronic Funds Transfer (EFT) or by cheque payable to the order of Receiver General for Canada.

EFT payments can be arranged by contacting the Director of Financial Services, Monday to Friday, from 09:00 to 16:00 Mountain Time:

Telephone: 403-606-0779 / 800-899-1265
Fax: 403-292-5503 / 877-288-8803

Cheques should be made out to the "Receiver General for Canada" and mailed to:

National Energy Board
517 10th Avenue SW
Calgary, AB
T2R 0A8

Your completed *Payment* form should be enclosed with your payment.

Vous disposez de 30 jours après la signification de l'Avis d'infraction pour demander une révision du montant de la pénalité, ou les faits rapportés, ou les deux.

Si les sanctions ne sont pas acquittées et qu'aucune révision n'est demandée, vous êtes considérés comme coupable de l'infraction et vous devez payer les sanctions précisées dans l'Avis d'infraction. Les sanctions sont payables à la date indiquée ci-dessus.

Un défaut de paiement constitue une créance envers l'Etat et peut être recouvré en utilisant tous les recours prévus dans la *Loi sur la gestion des finances publiques*.

L'information concernant l'infraction pourrait également être affichée sur le site Web de l'ONE:

- a) 30 jours après la date de réception de l'Avis;
- b) dès qu'une décision a été rendue à la suite d'une Demande de Révision.

Paiement:

Vous pouvez payer le montant dû par transfert électronique de fonds (TEF) ou par chèque établi à l'ordre du Receveur général du Canada.

Pour se prévaloir du service de transfert électronique, communiquer par téléphone avec le Directeur, Service des finances, du lundi au vendredi, de 9 h à 16 h, heure des Rocheuses :

Telephone: 403-606-0779/ 800-899-1265
Telec. : 403-292-5503/877-288-8803

Les chèques doivent être établis à l'ordre du Receveur général du Canada et postés à l'adresse suivante:

National Energy Board
517 10th Avenue SW
Calgary, AB
T2R 0A8

Le formulaire de *paiement* dûment rempli doit accompagner le paiement.

To Request a Review

Pursuant to the NEB Act, Section 144, you may file a request for a review of this Notice of Violation by the Board.

The date of filing is the date on which the document is received, as indicated by the date on an e-mail submission or the stamped on the document by a NEB employee.

If you elect to make a request for a review, complete and submit the attached *Request for Review* form to:

Administrative Monetary Penalty - Reviews
National Energy Board
444 - 7 Avenue SW
Calgary, AB
T2P 0X8

For more information on reviews, please see the Administrative Monetary Penalties Process Guide available on the NEB's [website](#).

If you have any questions regarding this matter, please contact the undersigned.

Sincerely,

Demander de révision

En vertu de l'article 144 de la Loi sur l'ONE, vous pouvez présenter à l'Office une *Demande de révision* de cet Avis l'infraction.

La date du dépôt correspond à la date de réception du document, qui apparaît sur l'envoi électronique ou le timbre apposé sur le document par un employé de l'ONE.

Si vous voulez demander une révision, veuillez remplir et soumettre le formulaire de Demande de révision à l'adresse suivante :

Sanction administrative pécuniaire - Révision
Office national de l'énergie
444, Septième Avenue S.-O.
Calgary (Alberta)
T2P 0X8

Pour de plus amples informations sur le processus de révision, prière de consulter le Guide sur le processus relatif aux sanctions administratives pécuniaires sur le [site Web](#).

Pour toute question à ce sujet, veuillez communiquer avec la personne soussignée.

Sincères salutations,



Patrick Smyth

Designated Officer
Administrative Monetary Penalties

Fonctionnaire désigné
Sanctions administratives pécuniaires

403-221-3014