



File OF-Fac-Oil-E101-2013-09-ROE 14
4 November 2013

Ms. Elsa Kaus
Enbridge Pipelines Inc.
Regulatory Counsel
LPC Regulatory Law & Affairs, Liquids Pipelines
30th Floor, 425-1st Street SW
Calgary, AB T2P 3L8
Facsimile 403-767-3863

Mr. Paul Vogel
Cohen Highly Lawyers
Legal Counsel
One London Place
255 Queens Ave., 11th Floor
London, ON N6A 5R8
Facsimile 519-672-5960

Dear Ms. Kaus and Mr. Vogel:

Enbridge Pipelines Inc. (Enbridge) Line 3 Replacement Project (Project)
Application for Right of Entry (ROE) under section 104 of the *National Energy Board Act* (NEB Act) and section 55 of the *National Energy Board Rules of Practice and Procedure* (Rules)
Murray Stuart (Landowner)
Tract 4032 E ½ of 6 SE 16-9-27 WPM Certificate of Title 2440309/2

On 10 September 2013, the National Energy Board (the Board) received the ROE application from Enbridge in relation to the lands identified above. On 18 September 2013, the Board also received an objection to the ROE application from the Landowner (Objection) and on 25 September 2013, Enbridge's reply to the Objection. The Board has reviewed the ROE application and other submissions.

In its application Enbridge submitted it attempted to negotiate in good faith with the Landowner about the land requirements for this Project. In his Objection, the Landowner argued that Enbridge should be required to settle contractual issues related to other land agreements¹ before addressing the lands requirements for this Project.

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¹ In the Objection, the Landowner referred to the Enbridge Alberta Clipper and Southern Lights Settlement Agreement dated 12 October 2007, and submitted that Enbridge is contractually restricted from entering off-easement lands of the Landowner. Enbridge replied that the Landowner's submissions were irrelevant to the acquisition of lands for this Project.

The Board notes that:

- the ROE application concerns lands required for the Project being undertaken to address issues of pipeline integrity;
- the Project was found to be in the public interest and approved by the Board on 18 July 2013;
- negotiations or attempts to negotiate have been ongoing for over a year and have not resulted in an agreement; and
- compensation issues that remain outstanding are not subject to the Board's jurisdiction.

The Board is not persuaded that the Landowner's argument about other contractual arrangements should prevent this ROE from proceeding.

The Board is of the view that the ROE application satisfies the requirements of the NEB Act and the Rules; and pursuant to subsection 104(1) of the NEB Act, the Board has issued Order RE-E101-014-2013. Three certified copies of the Order and Schedule attached to and forming part of the Order, are enclosed. The Schedule has been amended to reflect that abandonment of the pipeline will be subject to a separate approval from the Board.

The Board encourages Enbridge to continue to engage the Landowner in regard to any outstanding concerns he may have. The Board recognizes the importance of developing positive working relationships and offers Appropriate Dispute Resolution (ADR) services which can assist parties to understand the other's point of view and improve communications. For more information on ADR anyone may contact the Board toll free at 1-800-899-1265.

Please be advised that if there remain any unresolved matters of compensation between the parties, the NEB Act provides for negotiation and/or arbitration. The steps for commencing negotiation and arbitration proceedings are set out in sections 88 to 103 of the NEB Act. Sections 88 and 89 set out the procedure for negotiation and sections 90 through 103 set out the procedure for arbitration. For resolution of compensation matters, parties have the right to apply to the Minister of Natural Resources Canada for negotiation and binding arbitration. Rules on the procedure for arbitration may be found in the *Pipeline Arbitration Committee Procedure Rules, 1986*, a copy of which is enclosed for the Landowner.

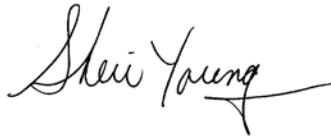
Any request for negotiation of compensation or arbitration should be provided to the other party and sent in writing to:

Minister of Natural Resources Canada
580 Booth Street, 17th Floor
Ottawa, Ontario K1A 0E4

For information on the Pipeline Arbitration Secretariat who administers the arbitration program, please see their website at <http://www.nrcan.gc.ca/energy/sources/natural-gas/pipeline-arbitration-secretariat/1601> or contact Maia Konrad, Pipeline Arbitration Secretariat, by calling 613-947-5664 or emailing PAS-SAG@NRCan-RNCan.gc.ca.

Should you have any questions regarding this letter, please contact Paul Johnston, Board Counsel at 403-292-6495 or toll free at 1-800-899-1265.

Yours truly,

A handwritten signature in cursive script that reads "Sheri Young". The signature is written in black ink and is positioned above the printed name and title.

Sheri Young
Secretary of the Board

Attachments

c.c.: Murray Stuart, Box 1526, Virden, MB, R0M 2C0