



File OF-Fac-Oil-N304-2010-01 03
6 December 2016

Mr. John Carruthers
President
Northern Gateway Pipelines Inc.
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Ms. Abby Dorval
Director, Regulatory Affairs
Northern Gateway Pipelines Inc.
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Dear Mr. Carruthers and Ms. Dorval:

**Northern Gateway Pipelines Inc. (Northern Gateway)
Enbridge Northern Gateway Project (Project)
Project application dismissal and rescinding of certificates**

Regulatory matters

In a 23 June 2016 decision, the Federal Court of Appeal quashed Order in Council P.C. 2014-809 dated 17 June 2014, which was the order directing the National Energy Board (Board) to issue Certificates OC-060 and OC-061 for the Project. The Court also quashed the certificates at that time and remitted the matter to the Governor in Council for redetermination.

Through Order in Council P.C. 2016-1047 dated 25 November 2016, the Governor in Council does not accept the finding of the joint review panel (Panel) that the Project, if constructed and operated in full compliance with the conditions set out in the Panel's report, is and will be required by the present and future convenience and necessity. The Governor in Council does not accept the Panel's recommendation and is of the view that the Project is not in the public interest.

As a result, the Governor General in Council, on the recommendation of the Minister of Natural Resources, has directed the Board to dismiss Northern Gateway's Project application.

In accordance with the Federal Court of Appeal's decision and the Governor General in Council's direction, the Board has rescinded Certificates OC-060 and OC-061 (see attached orders RO-OC-060 and RO-OC-061) and confirms that the Project application is dismissed.

The Board will not proceed with any further activities associated with the Project, including those related to condition compliance or with Northern Gateway's 6 May 2016 sunset clause extension request.

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Decision statement under section 54 of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) and paragraph 104(4)(b) of the *Jobs, Growth and Long-term Prosperity Act*

A previous decision statement for the Project was issued on 17 June 2014. The following decision statement supersedes that 2014 version.

Order in Council P.C. 2016-1047, dated 25 November 2016, indicates that:

- the Panel's report identified impacts from the Project that the Panel believed would be likely to cause significant adverse environmental effects for certain populations of woodland caribou and grizzly bear;
- evidence was received by the Panel on the unique and irreplaceable nature of the ecosystem of the Great Bear Rainforest, which includes the Douglas Channel;
- the Governor in Council is of the view that the waters of the Douglas Channel are part of a sensitive ecosystem that must be protected from spills of crude oil from tankers; and
- the Panel's report disclosed that the Project would result in 220 tankers annually transiting the waters of the Douglas Channel carrying crude oil, diluent, or condensate, or any combination of them.

The Governor General in Council, on the recommendation of the Minister of Natural Resources has decided that:

- a) pursuant to subsection 52(1) of the CEAA 2012, taking into account the implementation of mitigation measures that the Governor in Council considers appropriate, the Project is likely to cause significant adverse environmental effects referred to in subsection 5(2) of that Act; and
- b) pursuant to subsection 52(4) of the CEAA 2012, the significant adverse environmental effects referred to in a) are not justified in the circumstances.

If you have any questions regarding this matter, please contact Andrew Hudson, Legal Counsel, at 403-299-2708.

Yours truly,

Original signed by L. George for

Sheri Young
Secretary of the Board

Attachments

National Energy
Board



Office national
de l'énergie

ORDER RO-OC-060

IN THE MATTER OF the *National Energy Board Act* (the NEB Act) and the Regulations made thereunder; and

IN THE MATTER OF an application pursuant to section 52 of the NEB Act, dated 27 May 2010, by Northern Gateway Pipelines Limited Partnership, for a certificate of public convenience and necessity authorizing Northern Gateway Pipelines Inc. (Northern Gateway), on behalf of Northern Gateway Pipelines Limited Partnership, to construct and operate the oil pipeline and associated facilities as part of the proposed Enbridge Northern Gateway Project between approximately Bruderheim, Alberta, and Kitimat, British Columbia, filed with the National Energy Board (Board) under File OF-Fac-Oil-N304-2010-01 01.

BEFORE the Board on 6 December 2016.

WHEREAS the above-noted application for the oil pipeline and associated facilities is a component of the Enbridge Northern Gateway Project (the Project);

AND WHEREAS the joint review panel (Panel) prepared and submitted a report dated 19 December 2013 to the Minister of Natural Resources setting out its recommendation as to whether or not the certificate for the oil pipeline is and will be required by the present and future public convenience and necessity, the reasons for the recommendation, the terms and conditions that it considered necessary or desirable to which the certificate would be subject if the Governor in Council were to direct the Board to issue the certificate, and the environmental assessment of the Project;

AND WHEREAS the Governor in Council, by Order in Council P.C. 2014-809 dated 17 June 2014, directed the Board, pursuant to section 54 of the NEB Act, to issue to Northern Gateway Certificate OC-060 for the oil pipeline, subject to the conditions contained in the Panel's report;

AND WHEREAS, pursuant to section 54 of the NEB Act, the Board issued Certificate OC-060 on 18 June 2014 in respect of the oil pipeline and associated facilities of the Project;

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AND WHEREAS the Federal Court of Appeal quashed Order in Council P.C. 2014-809 and Certificate OC-060 in its 23 June 2016 decision *Gitxaala Nation v. Canada* 2016 FCA 187, and remitted the matter to the Governor in Council for redetermination;

AND WHEREAS the Governor in Council, by Order in Council P.C. 2016-1047 dated 25 November 2016, did not accept the Panel's finding that the Project, if constructed and operated in full compliance with the conditions set out in the Panel's report, is and will be required by the present and future convenience and necessity; did not accept the Panel's recommendation; was of the view that the Project is not in the public interest; and directed the Board to dismiss Northern Gateway's Project application.

IT IS ORDERED THAT, pursuant to subsection 21(1) of the NEB Act, Certificate OC-060 is hereby rescinded.

NATIONAL ENERGY BOARD

Original signed by L. George for

Sheri Young
Secretary of the Board

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Board



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ORDER RO-OC-061

IN THE MATTER OF the *National Energy Board Act* (the NEB Act) and the Regulations made thereunder; and

IN THE MATTER OF an application pursuant to section 52 of the NEB Act, dated 27 May 2010, by Northern Gateway Pipelines Limited Partnership, for a certificate of public convenience and necessity authorizing Northern Gateway Pipelines Inc. (Northern Gateway), on behalf of Northern Gateway Pipelines Limited Partnership, to construct and operate the condensate pipeline and associated facilities as part of the proposed Enbridge Northern Gateway Project between approximately Bruderheim, Alberta, and Kitimat, British Columbia, filed with the National Energy Board (Board) under File OF-Fac-Oil-N304-2010-01 01.

BEFORE the Board on 6 December 2016.

WHEREAS the above-noted application for the condensate pipeline and associated facilities is a component of the Enbridge Northern Gateway Project (the Project);

AND WHEREAS the joint review panel (Panel) prepared and submitted a report dated 19 December 2013 to the Minister of Natural Resources setting out its recommendation as to whether or not the certificate for the condensate pipeline is and will be required by the present and future public convenience and necessity, the reasons for the recommendation, the terms and conditions that it considered necessary or desirable to which the certificate would be subject if the Governor in Council were to direct the Board to issue the certificate, and the environmental assessment of the Project;

AND WHEREAS the Governor in Council, by Order in Council P.C. 2014-809 dated 17 June 2014, directed the Board, pursuant to section 54 of the NEB Act, to issue to Northern Gateway Certificate OC-061 for the condensate pipeline, subject to the conditions contained in the Panel's report;

AND WHEREAS, pursuant to section 54 of the NEB Act, the Board issued Certificate OC-061 on 18 June 2014 in respect of the condensate pipeline and associated facilities of the Project;

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AND WHEREAS the Federal Court of Appeal quashed Order in Council P.C. 2014-809 and Certificate OC-061 in its 23 June 2016 decision *Gitxaala Nation v. Canada* 2016 FCA 187, and remitted the matter to the Governor in Council for redetermination;

AND WHEREAS the Governor in Council, by Order in Council P.C. 2016-1047 dated 25 November 2016, did not accept the Panel's finding that the Project, if constructed and operated in full compliance with the conditions set out in the Panel's report, is and will be required by the present and future convenience and necessity; did not accept the Panel's recommendation; was of the view that the Project is not in the public interest; and directed the Board to dismiss Northern Gateway's Project application.

IT IS ORDERED THAT, pursuant to subsection 21(1) of the NEB Act, Certificate OC-061 is hereby rescinded.

NATIONAL ENERGY BOARD

Original signed by L. George for

Sheri Young
Secretary of the Board