

Memorandum of Understanding between the National Energy Board and the Oil & Gas Commission

I. PURPOSE

The National Energy Board (NEB) of Canada and the Oil & Gas Commission (OGC) of British Columbia (BC) (together, "the Parties") enter into this Memorandum of Understanding (MOU) to:

- A. enhance cooperation and coordination between the Parties for the purpose of improving pipeline safety within Canada and the province of British Columbia;
- B. outline a mutual aid agreement between the Parties whereby each agency may provide assistance to the other in respect of pipeline incident investigation and emergency response; and
- C. establish a protocol for coordinating training and technical liaison in areas of common interest between the Parties.

II. BACKGROUND

The NEB regulates aspects of the energy industry in Canada including the construction and operation of inter-provincial and international pipelines; pipeline traffic, tolls and tariffs; the construction and operation of international and designated inter-provincial power lines; the export and import of natural gas; the export of oil and electricity; and Frontier oil and gas activities.

The regulatory responsibility of the OGC extends from the exploration and development phases, through to facilities operation and ultimately decommissioning within the province of BC. Among its more specific objectives are public safety and environmental soundness in the design, construction, testing, operation, maintenance, and spill response planning for natural gas and hazardous liquid pipeline facilities within the province of BC.

The pipeline infrastructure in the province of BC and neighboring Canadian provinces or territories is interconnected, and the continued safe operation of this infrastructure is dependent on the adequacy and effectiveness of design, construction, operation, maintenance, and other aspects of pipeline transportation activities in both the federal and provincial jurisdictions. The Parties recognize that the conduct of their responsibilities has and will in the future require them to examine, regulate, or otherwise oversee interconnecting pipelines, pipeline facilities or activities. The Parties further recognize that appropriate cooperation in the development and implementation of regulatory programs will provide greater regulatory certainty to companies who own and/or operate pipelines that cross the boundary between British Columbia and neighboring Canadian provinces or territories.

III. TERMS OF AGREEMENT

- A. Cooperation and Coordination on Pipeline Safety

- i. When either party undertakes a compliance audit on a pipeline that is owned and/or operated by a company whose pipeline network includes both federally regulated and provincially regulated pipeline infrastructure, the party undertaking the audit will notify either the NEB Business Unit Leader, Operations or the OGC Operations Lead as appropriate. Where appropriate, such notification may include an invitation to observe the audit.
- ii. When either party commences an enforcement action on a pipeline as described above, the party commencing the action will notify either the NEB Business Unit Leader, Operations or the OGC Operations Lead as appropriate.
- iii. If an Alaskan natural gas pipeline is authorized by law to be designed, constructed and operated, the Parties will coordinate and collaborate in the manner described herein as appropriate.

B. Response to Pipeline Incidents or Emergencies

- i. Where incidents occur on NEB-regulated pipelines and/or facilities within BC, the OGC agrees, at the request of the NEB, to provide assistance in respect of any emergency response.
- ii. The OGC's assistance will normally be provided by the OGC Area Office closest to the incident site. The role of the OGC field staff will be to monitor and assess the pipeline operator's response in respect of the operator's ability to manage the emergency, ensure the safety of the public, and minimize damage to the environment. The OGC staff will provide timely updates to the NEB and, on the basis of its assessment, recommend to the NEB any action that may be required by the operator. The initial response by the OGC will continue until the hazards at the site are under control or until such time as the NEB personnel arrive at the site.
- iii. The investigation of the accident and the evaluation of the effectiveness of the clean-up and rehabilitation operations will remain the responsibility of the NEB.
- iv. Upon request from the NEB, the OGC will provide the NEB with suitable space in the Fort St. John area for storage of equipment and materials to be accessed by NEB staff when responding to an incident in northeast BC.
- v. Where incidents occur on OGC-regulated pipelines and/or facilities, the NEB agrees, at the request of the OGC, to provide assistance in respect of any emergency response or investigation.
- vi. Subsequent to a response to an incident on the other Party's behalf, the responding Party will provide a copy of the final incident report, subject to the provisions outlined in Clause 'V' below.

C. Training and Technical Cooperation

- i. The Parties will examine and pursue areas or opportunities where training and technical cooperation and collaboration would minimize duplication of effort, more effectively or efficiently use existing staff and technical knowledge, reduce regulatory burden, achieve consistency in methodologies and approach, and set the tone for cooperative efforts.

- ii. The Parties will pursue technical exchange of staff as considered suitable and appropriate

IV. INFORMATION EXCHANGE

- A. To the extent any investigation reports, findings, and company intelligence are shared in furtherance of the purposes of this MOU, each party shall protect any non-public records or portions thereof provided by the other party from unauthorized disclosure in accordance with applicable law, if possible, and shall obtain the consent of the providing party before disclosing any confidential information.
- B. Both Parties agree that they will specify when information it provides is being submitted "in confidence" so that the receiving Party can refuse disclosure of that material in accordance with either the Canada Access to Information Act, the BC Freedom of Information and Protection of Privacy Act, or other applicable legislation.

V. COSTS

- A. Cost recovery for activities associated with this agreement is not part of this MOU and will be negotiated individually where agreed to by the parties.
- B. The Parties will cover all relevant costs for their respective staff involved in a technical exchange.

VI. LEGAL LIABILITY

- A. This MOU indicates the intentions of the Parties, but does not create a contractual obligation between them.
- B. Nothing in this MOU or any annex shall be construed to conflict with current law, regulation, or directive of the NEB or the OGC. If a term of this MOU or any annex is determined to be inconsistent with such authority, that term shall be invalid to the extent of the inconsistency. The remainder of that term and all other terms shall remain in effect.
- C. Nothing in this MOU or any annex is intended to create any right or benefit, substantive or procedural, enforceable at law by any person or organization against either party, its agencies or officers, agencies or officers carrying out programs authorized under federal or provincial law, or any other person.

VII. OTHER PROVISIONS

- A. Nothing in this MOU or any annex is intended to impose any funding obligations on either of the Parties. Nothing in this MOU or any annex is intended to diminish or otherwise affect the authority of either party to carry out its statutory, regulatory or other official functions or to commit either party to providing a particular service they would not otherwise provide in the scope of each party's individual mission and functions.
- B. This MOU and any annexes hereto may be amended or modified at any time by written agreement of the NEB Chair and Chief Executive Officer and the OGC Commissioner.
- C. Should disagreement arise on the interpretation of any provision of this MOU or any amendments and/or modifications thereto that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the Parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

VIII. PRINCIPAL CONTACTS

The Parties designate the principal contacts identified in Attachment A. Each party's contact may be changed at its discretion upon notice to the other party.

IX. EFFECTIVE PERIOD/TERMINATION

This MOU will be effective as of the date of final signature by both of the Parties and will remain in effect until terminated by either party. Either party may terminate this MOU and any annexes hereto upon written notice to the other party.

X. PERIODIC REVIEW/CONSULTATION

The Parties agree that on an annual basis the appropriate staff from both organizations will meet to review the content and continued relevance of this MOU. Proposals for changes to this MOU can be made at any time, and appropriate amendments made as may be agreed upon.

APPROVED BY: (originals signed by Gaetan Caron, Chair and CEO, NEB; and, Alex Ferguson, Commissioner, OGC)

ATTACHMENT A: PRINCIPAL CONTACTS

The following are the principal initial contacts for each party:

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