



File ADV-PE-LandMC 0102  
2 February 2009

To: LMCI Stream 4 Interested Parties  
All Oil and Gas Pipeline Companies Under the National Energy Board's Jurisdiction and  
All Interested Parties

**Clarification of the nature of the National Energy Board's (NEB or the Board)  
jurisdiction and its approach to abandonment of pipelines**

On 16 December 2008, the Board released a draft Land Matters Consultation Initiative (LMCI) Final Report for comment (the Report). In this Report, the Board committed in Action 4.2 to clarifying the nature of the Board's jurisdiction post-abandonment and outlining the Board's regulatory approach to abandonment. This letter fulfills this commitment.

**NEB Jurisdiction**

The Board's jurisdiction over a pipeline continues until the coming into effect of the order which authorizes the abandonment of that pipeline. If an abandonment order contains conditions that must be complied with before the order can come into effect, the order will come into effect when all those conditions have been met and the Board's jurisdiction will continue until that time.

**Regulatory Approach to Abandonment**

It is recognized by participants in the LMCI that there are gaps in knowledge, policy and standards with respect to the physical issues of abandonment that require resolution. Through consultations, the Board understands that these gaps relate in part to the concern that abandonment plans which contemplate leaving large-diameter pipelines in the ground pose risk of liability to landowners. Certain landowners and associations suggested during LMCI consultations that the Board should require the removal of all large-diameter pipelines at the end of their life as they were of the view that this would adequately mitigate landowner liability.

Given the gaps stated above, the Board is of the view that the Canadian public would benefit from a better understanding of the physical issues of abandonment before considering whether or not to undertake a regulatory change to the effect of requiring the removal of large-diameter pipelines in agricultural lands.

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The Board continues to have the discretion to decide on an appropriate abandonment methodology as it hears specific abandonment applications. Section 19 of the *National Energy Board Act* provides the Board with the authority to impose conditions which suspend the coming into force of an order authorizing an abandonment application until all of those conditions are met. The Board commits to continue using section 19 appropriately such that when abandonment orders come into effect, the safety and property concerns and environmental effects are well understood and residual impacts are considered acceptable.

The Board committed to undertake a number of Stream 4 Actions in the Report. One of these Actions is to initiate a multi-stakeholder group to research the physical issues of abandonment and develop sound knowledge, standards and policies. The outcomes of this and the other Stream 4 Actions should help to mitigate the concerns which were heard through the LMCI regarding the physical issues of abandonment. Specifically, the Actions will help clarify the Board's regulatory approach to abandonment which is consistent with the Board's overall regulatory framework<sup>1</sup> of having regulatory programs in place for all of its public interest areas throughout the lifecycle of facilities.

On 21 January 2009, the Board also released proposed principles for the end state of land post-abandonment to fulfil Action 4.1 of the Report. Comments are invited through the comment processes which have been respectively established for the Report itself and the proposed revised principles.

Yours truly,

A handwritten signature in black ink, reading "AnneMarie Erickson". The signature is written in a cursive, flowing style.

for  
Claudine Dutil-Berry  
Secretary of the Board

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<sup>1</sup> The NEB's Approach to Regulating Pipelines Facilities and its Regulatory Framework were detailed in Appendix 2 to the Land Matters Consultation Initiative Draft Final Report issued under cover letter dated 16 December 2008.