

National Energy  
Board



Office national  
de l'énergie

## LETTER DECISION

File OF-Fac-Gas-F073-2013-01 01  
6 December 2013

Mr. Gary Turner  
Forty Mile Gas Co-op Ltd.  
254 - 7 Street  
Dunmore, AB T1B 0K9

Dear Mr. Turner:

**Abandonment Hearing MHW-003-2013  
Forty Mile Gas Co-op Ltd. (Forty Mile)  
Abandonment Application - Order XG-F73-4-98**

The National Energy Board (NEB or Board) has considered the above-referenced application dated 25 March 2013 (Application). Pursuant to paragraph 74(1)(d) of the *National Energy Board Act* (NEB Act), the Board has issued the attached Order ZO-F073-003-2013 (Order), the effect of which is to grant Forty Mile leave to abandon the pipelines and associated facilities comprising its gas distribution system (Gas Distribution System) as applied for. Please see the attached Order outlining the Board's conditions associated with the abandonment.

The Board's analyses and conclusions in support of its decision to issue the Order are set out below. In reaching its conclusions, the Board considered all of the evidence on the record related to this matter. The regulatory documents on file in the MHW-003-2013 proceeding are available on the Board's website, [www.neb-one.gc.ca](http://www.neb-one.gc.ca).

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## **1.0 Project Overview and the NEB Process**

### **1.1 Application and Project Overview**

On 25 March 2013, Forty Mile filed its Application to abandon the Canadian portion of its Gas Distribution System constructed under the authority of Order XG-F73-4-98, at a total estimated cost of \$1,500 (Project). Supplemental information about environmental and engineering matters was received by the Board on 13 August 2013, from Forty Mile in its response to the Board's Information Request No.1.

Forty Mile indicated that the Gas Distribution System includes three parallel 26 mm diameter polyethylene pipelines, each 35 metres in length (Pipelines), as well as associated risers, meters and piping, all located at its gas supply, at the Canadian Customs Port of Entry office building, in Wild Horse, SE 4-1-2W4 at the Canada-United States of America (U.S.) Border. When in use, the Gas Distribution System carries sweet natural gas to the U.S. Border Services as a source of energy for its port office and residences located at the Wild Horse border crossing.

Forty Mile submitted that the Gas Distribution System is being abandoned as it is no longer needed by the U.S Border Services. The Application indicated that abandonment activities will be carried out entirely within Forty Mile's existing utility right-of-way (URoW). No additional land access was indicated as being necessary for the Project.

### **1.2 The NEB Process**

Under the NEB Act, the Board must hold a public hearing to consider an application for leave to abandon a pipeline. The Board issued a Notice of Abandonment Hearing MHW-003-2013 for the Project (Notice) on 14 August 2013, which established the public hearing process for the Board's consideration of the Application. The Notice was served on potentially impacted parties in the Project area. The Notice indicated that any member of the public could be involved in the Board's written public hearing process by filing a letter, and any supporting documents, with the Board, to advise of, or explain, any views on impacts as a result of the proposed abandonment.

No letters were received by the Board from any landowners, interest groups, Aboriginal groups or individuals, or from any member of the public.

## **2.0 Assessment of the Application**

### **2.1 Engineering Matters**

Forty Mile submitted that abandonment activities will involve the removal of all above-ground facilities including three risers, three gas meters and associated piping. Abandonment activities will also include capping the Pipelines underground and abandoning them in place.

Forty Mile submitted further that all abandonment activities will comply with all *Canadian Standards Association (CSA) Z662, Oil and Gas Pipeline Systems* requirements.

### ***Views of the Board***

When a company designs, constructs, operates, or abandons a pipeline, it must do so in accordance with all legislative requirements. CSA Z662-11, Clause 12.10.2.4 provides the requirements for the abandonment of distribution system piping, and states that where piping is abandoned, it shall be purged. The Board notes that in its Application, Forty Mile committed to capping its Pipelines underground as part of its abandonment activities. However, the abandonment activities as described, did not include purging of the Pipelines. Forty Mile is responsible for ensuring abandonment in accordance with CSA Z662-11, and accordingly, Condition 4 of the Order requires Forty Mile to purge the Gas Distribution System's Pipelines as per its Clause 12.10.2.4.

For the Board's view regarding Forty Mile's proposed methods of abandonment, see section 2.3 – Environment Matters.

## **2.2 Economics Matters**

Forty Mile submitted that the estimated cost of abandoning the Gas Distribution System is \$1,500.00. Forty Mile did not provide financial information regarding potential post-abandonment activities associated with the Gas Distribution System.

### ***Views of the Board***

In the RH-2-2008 Reasons for Decision, the Board set out guiding principles and a five-year Action Plan, so that all NEB-regulated companies would begin to report on financial arrangements to cover abandonment costs. Since the RH-2-2008 Reasons for Decision, the Board has issued several additional documents which address funding for abandonment and post-abandonment activities.<sup>1</sup>

In the RH-2-2008 Reasons for Decision, the Board set out several key principles relating to abandonment funding. The Board indicated that pipeline companies are ultimately responsible for the full costs of abandoning their pipelines, and also that landowners will not be liable for costs of pipeline abandonment. Another principle set out by the Board in that decision is that it regulates using a risk-based lifecycle approach; it does not subscribe to the concept of the elimination of all risk.

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<sup>1</sup> NEB, [Revisions to Preliminary Base Case Assumptions](#), 4 March 2010; NEB, Unit Costs and Process for Consideration of Group 1 May 2011 Cost Estimate Filings, 21 December 2010; NEB, Unit Costs for Abandonment Activities (attachment to Board letter), 21 December 2010.

In this case, the Board is satisfied that Forty Mile has sufficient funds to conduct its abandonment activities. However, consistent with the above principles, the Board requires Forty Mile to demonstrate, to the Board's satisfaction, that funding is available to cover post-abandonment activities. Accordingly, Condition 8 of the Order requires Forty Mile, after completing abandonment activities, to file a letter acknowledging ongoing financial responsibility, for as long as it retains ownership, for monitoring and any potential remediation required in the future for the Gas Distribution System.

### 2.3 Environment Matters

Forty Mile submitted that there would be no impact to the environment as a result of the Project. Specifically, Forty Mile stated there would be very minimal ground disturbance, and confirmed that the Project site is located within a fenced compound where the current land cover is gravel and dirt. Forty Mile also confirmed that the land cover would be reclaimed to match current conditions, and that there was no known contamination at the Project's location. Forty Mile did not identify any additional mitigation measures that would be required to protect biophysical elements during the abandonment.

#### *Views of the Board*

The Project's environmental matters were considered pursuant to the NEB Act. The Board uses a lifecycle approach to ensure environmental protection throughout all phases of a Board-regulated facility. At the abandonment phase, in addition to assessing the effects of the physical abandonment activities on the environment, the state of a pipeline right-of-way and the risk to biophysical elements post-abandonment are considered. This includes considerations such as soil and groundwater contamination, remediation, reclamation, and the end state of land.<sup>2</sup>

The Project is not subject to the requirement of an Environmental Assessment under *Canadian Environmental Assessment Act, 2012* (CEAA 2012). However, the Board did assess as per Section 67 of CEAA 2012, whether the carrying out of the Project is likely to cause significant adverse environmental effects on the federal lands upon which it is to occur.

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<sup>2</sup> In July 2009, the NEB issued a document entitled [Principles for the End State of Land Post-Retirement and Next Steps](#), [A22297], dated 21 July 2009, which includes the following principles:

- Retirement and reclamation returns the right-of-way to a state comparable with the surrounding environment. Facility owners and operators should accommodate the desired land use of those who are affected when it is reasonable to do so.
- In natural environment areas, or where rare or sensitive native plant species and communities are present, reclamation promotes the eventual re-establishment of habitat quality on lands affected by right-of-way development to as native a state as is consistent with the current and surrounding land use.

With respect to the methods of abandonment proposed by Forty Mile, the Board is of the view that abandonment of the Pipelines in-place and removal of all above-ground facilities is acceptable for the Gas Distribution System. By abandoning the Pipelines in-place, ground disturbance will be limited, and occur within a fenced, gravel compound. The Board finds that the risk of land subsidence is low as the Pipelines are very small in diameter, and are polyethylene. The Board is of the view that the risks posed by the Pipelines potentially becoming a conduit for water are also low. The Pipelines do not cross any water courses, and there is no known contamination at the Project location. Forty Mile submitted that it would cap the Pipelines below ground resulting in pipeline segments that are within the range of segmentation activities (400 metres to six kilometres) that the Board found reasonable in the MH-001-2012 Reasons for Decision, for basic abandonment-in-place.<sup>3</sup>

The Board is of the view that Forty Mile's implementation of Condition 4 to purge the Pipelines, will sufficiently remove potential sources of contamination from the Gas Distribution System's Pipelines. Further, the Board views the likelihood of existing soil or groundwater contamination from the Gas Distribution System, which carried sweet natural gas, to be low. Accordingly, the Board is satisfied that the risk of contamination from the Gas Distribution System does not require further assessment unless evidence of contamination is observed during abandonment activities, particularly over the course of any excavation work. Notwithstanding this conclusion, the Board requires assurance that any potential contamination currently associated with the Gas Distribution System will be adequately identified, and that any new contamination resulting from abandonment activities will be prevented or adequately mitigated. As such, Forty Mile must satisfy Condition 5 of the Order and submit an Environmental Protection Plan documenting procedures and measures that will mitigate environmental impacts. Condition 6 of the Order requires Forty Mile to notify the Board in the event that contamination in excess of regulatory limits is discovered or occurs during abandonment activities.

The ground disturbance required for the Project would occur within a fenced, gravel compound, which is an area with existing disturbance. Considering this existing disturbance, and Forty Mile's commitment to reclaiming disturbed areas to match current conditions, the Board views any potential effects from Forty Mile's proposed abandonment activities at this area to be minor in nature. Nevertheless, Forty Mile is required through Condition 7 to report on reclamation and demonstrate that the end state of the land on its URoW is comparable to that of adjacent land.

Given the nature and scope of the Project as applied for, and the implementation of the Board's prescribed mitigative conditions, the Board anticipates that any environmental effects would be reversible, of short-to-medium term in duration, of limited geographic extent, and of low magnitude. Moreover, the Board has determined that the carrying out

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<sup>3</sup> NEB MH-001-2012, [Reasons for Decision, Abandonment Cost Estimates](#), 4.3 Basic Pipeline Abandonment-in-Place (PDF page 49 of 126)

of the Project is not likely to cause significant environmental effects on the federal lands upon which it will occur.

## **2.4 Consultation Matters**

As per the Notice, on 27 August 2013, Forty Mile submitted to the Board a list of potentially impacted persons upon which it served the Notice. This list included a ranching company, a municipality, and a federal government agency.

### ***Views of the Board***

The Board notes that it received no comments from any person or group about the Project.

Given that Forty Mile identified potentially impacted parties and effected service of the Notice in a timely manner, and that the Notice remained publically accessible on the Board's website throughout the comment period, the Board is satisfied that anyone potentially affected by the Project had adequate opportunity to voice any concerns.

## **2.5 Socio-Economic Matters**

Forty Mile submitted that due to the surrounding area being ranchland, there are very few people that could be impacted by the Project. Forty Mile submitted further that there will be very minimal ground disturbance which will have no effect on landowners. According to Forty Mile, the five by five metre area to be excavated as part of abandonment activities is within a fenced compound, and further, located on Forty Mile's URoW. Forty Mile also submitted that all abandonment activities will be conducted pursuant to its safe work procedures.

### ***Views of the Board***

The Board expects applicants to identify the effects that projects may have on environmental and socio-economic elements, to identify mitigation measures it will implement to reduce those effects, and to assess the significance of any effects that would remain once the mitigation has been applied.

The Board is satisfied that Forty Mile has identified the relevant socio-economic effects associated with the Project. The Board notes the limited scope and insular location of Forty Mile's abandonment activities, which will occur on a fenced compound over previously disturbed ground. Given the potential effects identified, the Board is of the view that no mitigation measures are necessary. The Board views Forty Mile's submission that very few people that could be impacted by the Project to be reasonable, and is of the view that the Project will not have any significant adverse socio-economic effects.

### **3.0 Decision**

Based on all of the foregoing considerations and reasons, the Board grants Forty Mile leave to abandon the Gas Distribution System as set out in the attached Order.

A handwritten signature in black ink, appearing to read "Roland R. George". The signature is fluid and cursive, with the first name "Roland" being more prominent than the last name "George".

Roland R. George  
Member

Calgary, Alberta  
December 2013