

National Energy
Board



Office national
de l'énergie

File OF-Fac-Gas-N081-2010-15 02
21 June 2012

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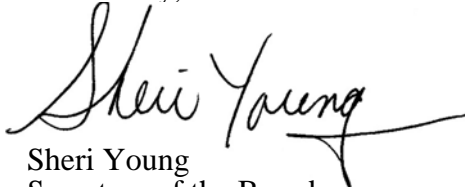
Dear Mr. Forrest, Mr. Manning and Mr. Denstedt:

**NOVA Gas Transmission Ltd. (NGTL)
Hearing Order GH-004-2011
Leismer Kettle River Crossover (Project) Application of 15 July 2011
Letter Decision**

The National Energy Board has considered the above-referenced Application dated 15 July 2011 and the evidence and submissions made in the GH-004-2011 proceeding. As a responsible authority under the *Canadian Environmental Assessment Act* (CEA Act), the Board conducted an environmental screening of the Project. The Board has determined, pursuant to paragraph 20(1)(a) of the CEA Act, that taking into account the implementation of NGTL's proposed environmental protection procedures and mitigation measures, and compliance with the attached conditions, the Project is not likely to cause significant adverse environmental effects. The Board issues the attached Environmental Screening Report pursuant to the CEA Act.

Having considered, addressed and discharged its obligation under the CEA Act, the Board wishes at this time to render its decision on NGTL's application (Decision) with reasons to follow. The Board issues the attached Decision on the application heard by the Board in the GH-004-2011 proceeding, with conditions, also attached.

Yours truly,



Sheri Young
Secretary of the Board

Attachments: Decision, Conditions, Environmental Screening Report

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Decision

Having considered and weighed all the evidence before it, the Board finds that the Leismer to Kettle River Crossover, as proposed by NGTL, is and will be required by the present and future public convenience and necessity and is in the public interest.

The Board will recommend to Governor in Council that a Certificate of Public Convenience and Necessity (Certificate) be issued. Subject to Governor in Council approval, the Board will issue a Certificate for the Project, incorporating the terms and conditions (Certificate Conditions) attached to this Decision, pursuant to Part III of the *National Energy Board Act*.

The Board reminds NGTL that it has made a number of commitments to the Board and other parties during the GH-004-2011 proceeding and expects NGTL to adhere to these commitments.

This is the Board's decision on NGTL's Application. Written reasons for this decision will be issued in due course.



L. Mercier
Presiding Member



R. R. George
Member



G. A. Habib
Member

Calgary, Alberta
June 2012

Certificate Conditions

In these conditions, the expression “commencing construction” means the clearing of vegetation, ground-breaking and other forms of right-of-way preparation that may have an impact on the environment, but does not include activities associated with normal surveying activities. Where any condition requires a filing with the Board “for approval” for a specific action, NGTL must not commence that action until the approval is issued.

The terms below (in bold) have the following meanings:

Project - The Project consists of approximately 77 km of 762 mm (NPS 30) OD pipe and related facilities from a tie-in at the existing Leismer compressor station located at LSD 3-4-081-13 W4M extending east and tie into the existing 273.1 mm (NPS 10) OD Kettle River Lateral and the existing 406.4 mm (NPS 16) OD Kettle River Lateral Loop at LSD 14-26-80-6 W4M.

Footprint – The area directly disturbed by the construction and clean-up activities associated with the Project, including associated physical works and activities (e.g., permanent right-of-way, temporary workspace for construction, tie-in facilities).

Certificate – The Certificate of Public Convenience and Necessity authorizing the construction and operation of the facilities applied for under Section 52 of the *National Energy Board Act*.

GENERAL

Compliance

1. NGTL shall comply with all of the conditions contained in this Certificate, unless the Board otherwise directs.

Project Design, Construction and Operation

2. NGTL shall cause the approved Project to be designed, constructed and operated in accordance with the specifications, standards and other information referred to in its application or as otherwise agreed to during questioning or in its related submissions.

Implementation of Environmental Protection

3. NGTL shall implement or cause to be implemented all of the policies, practices, programs, mitigation measures, proposed conditions and procedures for the protection of the environment included in or referred to in its application or related submissions or as otherwise agreed to during questioning.

PRIOR TO CONSTRUCTION

Construction Schedule

4. NGTL shall, at least 14 days prior to the commencement of construction, file with the Board a detailed construction schedule identifying major construction activities and shall notify the Board of any modifications to the schedule or schedules as they occur.

All clearing and grading within the Egg-Pony Caribou Area shall be completed by 15 February 2013. The schedule shall reflect NGTL's commitment of minimizing overlap with the Caribou restrictive activity period (RAP). The schedule shall also demonstrate the aim of completing all other construction activities within the Egg-Pony Caribou Area by 1 March 2013.

Manuals and Programs

5. NGTL shall file with the Board the following programs and manuals within the time specified or as otherwise directed by the Board:
 - a) Field Joining Program - 14 days prior to joining;
 - b) Construction Safety Manual - 14 days prior to construction;
 - c) Field Pressure Testing Program - 14 days prior to pressure test;
 - d) Field Emergency Response Plan - 14 days prior to construction;
 - e) Security Management Plan – 14 days prior to construction.

Commitments Tracking Table

6. NGTL shall:
 - a) file an updated Commitments Tracking Table with the Board 14 days prior to commencement of construction;
 - b) update the status of the commitments in paragraph (a) on a monthly basis until the commencement of operation and on an annual basis thereafter, until all commitments have been achieved;
 - c) maintain at its construction office(s):
 - i) the relevant environmental portion of the Commitments Tracking Table listing all regulatory commitments, including but not limited to, those commitments resulting from NGTL's application and subsequent filings, and conditions from permits, authorizations and approvals;
 - ii) copies of any permits, approvals or authorizations for the Project issued by federal, provincial or other permitting authorities, which include environmental conditions or site-specific mitigation or monitoring measures; and
 - iii) any subsequent variances to any permits, approvals or authorizations in ii).

Environmental Protection Plan (EPP) and Environmental Alignment Sheets

7. NGTL shall file with the Board for approval, at least 60 days prior to commencing construction:
- a) An updated environmental protection plan, including environmental alignment sheets, for the construction and operation of the Project facilities.

The EPP shall be a comprehensive compilation of all environmental protection procedures, mitigation measures, and monitoring commitments, as set out in NGTL's application for the Project, subsequent filings, evidence collected during the hearing process, or as otherwise agreed to during questioning or in its related submissions. The EPP shall describe the criteria for the implementation of all procedures and measures. The EPP shall include, but not be limited to, the following:

- i) environmental procedures including site-specific plans, criteria for implementation of these procedures, mitigation measures and monitoring applicable to all Project phases and activities; and
- ii) a reclamation plan which includes a description of the condition to which NGTL intends to reclaim and maintain the right-of-way (RoW) once construction has been completed, and a description of measurable goals for reclamation.
- b) All mitigation related to caribou and caribou habitat is placed in one chapter of the EPP which includes:
- i) NGTL's commitments to adhering to specific provincial and federal best practices, requirements and timing restrictions;
- ii) a list of all measures to minimize disturbance to caribou habitat, and measures to be taken before and during construction to help accelerate the restoration of caribou habitat; and
- iii) the locations where those measures will be taken.
- c) Evidence demonstrating that:
- i) there is a management system in place which ensures the updates of the environmental protection procedures, mitigation measures and monitoring are effectively communicated to employees, contractors and regulators; and
- ii) consultation took place with relevant government authorities, where applicable.

Species at Risk Surveys

8. NGTL shall submit for approval 60 days prior to the commencement of construction:
 - a) a summary of its findings based on field surveys for western (boreal) toad, yellow rail, Canada warbler, olive-sided flycatcher, and rusty blackbird, trapper data for wolverine and incidental observations for common nighthawk;
 - b) specific mitigation measures that will be implemented;
 - c) an outline of how NGTL will conduct post-construction monitoring for these species and performance measures that will be used; and
 - d) evidence of consultation with Environment Canada (EC) and the province that includes a summary of all concerns raised by EC and the province and a commitment to undertaking those agencies' recommendations. In those cases where NGTL does not commit to those recommendations, NGTL shall provide a detailed explanation.

Caribou Restricted Activity Period (RAP) Contingency Plan

9. NGTL shall file with the Board, by 15 December 2012, a contingency plan specifying additional measures NGTL will implement, to accelerate construction activities in the event that any potential delays risk increasing the overlap of construction activities with the Caribou RAP.

Caribou Habitat Restoration Plan (CHRP)

10. NGTL shall file with the Board for approval, as per the timelines below, preliminary and final versions of a CHRP.
 - a) a preliminary CHRP - to be submitted at least 60 days prior to commencing construction. This version of the CHRP shall include, but not be limited to:
 - i) the goals and measurable objectives of the CHRP;
 - ii) identification of any suitable immediate, medium-term and long-term caribou habitat restoration methodologies, as well as a literature review and discussion of the effectiveness of the different potential methods;
 - iii) the framework that will be used to identify potential caribou habitat restoration sites and the decision-making criteria that will be used for final site selection;
 - iv) the criteria that will be used to evaluate the effectiveness of the CHRP to determine whether goals have been met;
 - v) a tentative schedule indicating when measures will be initiated and completed; and
 - vi) evidence and a summary of consultation with EC and Alberta Sustainable Resource Development (ASRD) regarding the CHRP.

- b) a final CHRP - to be submitted on or before 1 November after the first complete growing season following the commencement of operation of the Project. This updated version of the CHRP shall include, but not be limited to:
 - i) the preliminary CHRP, with any updates highlighted in a revision log;
 - ii) a complete list of the proposed sites for caribou habitat restoration, including a description of the site-specific restoration activities and maps or Environmental Alignment Sheets showing the locations of the sites;
 - iii) confirmation of the rationale used to select the caribou habitat restoration sites;
 - iv) a discussion of the locations or conditions that may present specific challenges;
 - v) a schedule indicating when measures will be initiated and completed;
 - vi) evidence and summary of consultation with EC and ASRD regarding the Final CHRP; and
 - vii) a quantitative and qualitative assessment of the area of caribou habitat that is directly and indirectly disturbed and the duration of spatial disturbance.

Heritage Resources

- 11. At least 30 days prior to the commencement of construction, NGTL shall file with the Board:
 - a) a copy of correspondence from Alberta Culture confirming that NGTL has obtained all archaeological and heritage resource permits and clearances; and
 - b) a statement on how NGTL intends to implement any recommendations contained in a) above.

Post-Construction Monitoring Program (PCMP)

- 12. NGTL shall file with the Board for approval, at least 60 days prior to commencing construction, a preliminary detailed PCMP which:
 - a) describes the methodology to be used for monitoring and the criteria established for evaluating success;
 - b) identifies the issues to be monitored, including all valued ecosystem components contained in the PCMP section of the draft EPP together with wetland habitat quality and function, wildlife, wildlife habitat, and species at risk; and
 - c) includes details of consultation undertaken with appropriate provincial and federal authorities.

DURING CONSTRUCTION

Construction Progress Reports

13. NGTL shall file with the Board by mid and end of each month, construction progress reports. The reports shall include information on the activities carried out during the reporting period, any environmental, safety and security issues and issues of non-compliance, and measures undertaken for their resolution.

Each progress report after 15 December 2012 shall also include an update on the extent to which potential delays risk increasing the overlap of construction activities with the Caribou RAP, and an explanation of whether the measures in the Caribou RAP Contingency Plan need to be implemented.

Horizontal Directional Drilling of Christina River

14. NGTL shall:
 - a) notify the Board in writing of any change from the proposed horizontal directional drilling watercourse crossing method, at least seven days prior to implementing a contingency crossing of Christina River, and provide the reasons for that change;
 - b) file with the Board, prior to commencing construction of a contingency crossing of Christina River, a copy of the authorizations from relevant government agencies for the in-stream crossing method; and
 - c) file with the Board, within 30 days of completing a contingency trenched crossing of Christina River, a site-specific reclamation plan for the crossing which includes the desired outcomes following implementation of the plan.

POST CONSTRUCTION AND OPERATIONS

Condition Compliance by a Company Officer

15. Within 30 days of the date that the approved Project is placed in service, NGTL shall file with the Board a confirmation, by an officer of the company, that the approved applicable Project was completed and constructed in compliance with all applicable conditions in this Certificate. If compliance with any of these conditions cannot be confirmed, the officer of the company shall file with the Board details as to why compliance cannot be confirmed. The filing required by this condition shall include a statement confirming that the signatory to the filing is an officer of the company.

Post-Construction Environmental Monitoring Reports

16. On or before 31 January after each of the first, third, and fifth complete growing seasons following the commencement of operation of the Project, NGTL shall file with the Board a post-construction environmental monitoring report that:
- a) describes the methodology used for monitoring, the criteria established for evaluating success and the results found;
 - b) identifies the issues to be monitored, including but not limited to unexpected issues that arose during construction, and their locations (e.g., on a map or diagram, in a table);
 - c) describes the current status of the issues (resolved or unresolved), any deviations from plans and corrective actions undertaken;
 - d) assesses the effectiveness of mitigation (planned and corrective) measures applied against the criteria for success;
 - e) includes details of consultation undertaken with appropriate provincial and federal authorities;
 - f) provides proposed measures and the schedule that NGTL would implement to address ongoing issues or concerns; and
 - g) includes an assessment of wetland habitat and wildlife and wildlife habitat, including species at risk.

The first monitoring report shall include a final PCMP, incorporating any changes or refinements to the preliminary PCMP.

Weed Management Plan

17. NGTL shall file with the Board, at least 30 days prior to requesting Leave to Open, a project-specific Weed Management Plan that includes:
- a) NGTL's goals and measurable objectives regarding weed management;
 - b) the methods and procedures available to achieve the mitigation goals and clear decision criteria for their selection;
 - c) either:
 - i) evidence confirming satisfaction of all relevant regulatory authorities, or, if (i) is not possible,
 - ii) evidence of its consultation with all relevant regulatory authorities and a summary of their outstanding concerns.
 - d) the criteria to determine if the mitigation goals have been met;
 - e) the frequency of monitoring activities along the RoWs and temporary workspaces;
 - f) training and qualification requirements of NGTL staff responsible for monitoring;
 - g) a mechanism for tracking weed problems and weed control activities; and

- h) criteria to evaluate the effectiveness of the Weed Management Plan, as well as adaptive management practices.

Offset Measures Plan for Residual Impacts to Caribou Habitat

18. NGTL shall file with the Board for approval, as per timelines below, preliminary and final versions of a plan to offset all residual Project-related effects resulting from directly and indirectly disturbed caribou habitat, after taking into account the implementation of the EPP and CHRP measures. The Offset Measures Plan shall include:

- a) a preliminary version, to be filed for approval at least 60 days prior to requesting Leave to Open, with the criteria and the measurable objectives of the plan, including, but not limited to, a discussion of:
 - i) an initial quantification of the area directly and indirectly disturbed;
 - ii) a list of the potential offset measures available;
 - iii) the appropriate offset ratio for each potential measure;
 - iv) the expected effectiveness of each measure;
 - v) the relative value of each measure towards achieving the offset; and
 - vi) the decision-making criteria for selecting which specific offset measures and accompanying offset ratios would be used under what circumstances.
- b) a final version, to be filed for approval on or before 1 February after the first complete growing season following the commencement of operation of the Project, with:
 - i) the contents of the preliminary version, with any updates highlighted in a revision log;
 - ii) a complete list of the offset measures and appropriate offset ratios to be implemented or already underway, including a description of site-specific details and maps showing the locations;
 - iii) a schedule indicating when measures will be initiated and completed; and
 - iv) either an assessment of the effectiveness of the measures and their value in offsetting the residual effects or a detailed plan for completing an assessment of the effectiveness and value of the offset.

Both the preliminary and final versions of the plan shall also include:

- c) a description of NGTL's consultations with potentially affected Aboriginal groups regarding the plan, including any concerns that were raised and how these have been addressed; and
- d) evidence and summary of consultation with EC and ASRD regarding the plan.

Caribou Habitat Restoration and Offset Measures Monitoring Program (Caribou Program)

19. NGTL shall file with the Board for approval, on or before 1 February after the first complete growing season following the commencement of operation of the Project, a program for monitoring and verifying the effectiveness of the caribou habitat restoration and offset measures implemented as part of the CHRP and Offset Measures Plan. The Caribou Program shall include, but not be limited to:
- a) the scientific methodology or protocol for short-term and long-term monitoring of the restoration and offset measures, and the effectiveness of the measures;
 - b) frequency, timing and locations of monitoring and the rationale for each;
 - c) protocols for how restoration and offset measures will be adapted, as required, based on the monitoring results from the implementation of either the Project or other NGTL CHRPs and Offset Measures Plans; and
 - d) a schedule for filing reports of monitoring results and the adaptive management responses, to the Board, EC and ASRD, to be contained in the Program as well as at the beginning of each report filed.

Monitoring Reports

20. NGTL shall file with the Board, based on the schedule referred to in the Caribou Habitat Restoration and Offset Measures Monitoring Program, a report(s) outlining the results of the monitoring program.

Aboriginal Consultation Reports during Construction

21. NGTL shall file with the Board, on a monthly basis during construction, reports on consultation activities undertaken with those Aboriginal groups that NGTL will include in its ongoing consultation plans for the Project. The reports shall include, at a minimum:
- a) a list of those Aboriginal groups included in consultation activities;
 - b) summaries of any issues or concerns raised;
 - c) a description of how any concerns or issues were addressed; and
 - d) a description of any Project-specific reports or updates that were provided by NGTL to Aboriginal groups included in consultation activities.

CERTIFICATE EXPIRATION

Sunset Clause

22. Unless the Board otherwise directs prior to 21 June 2013, this Certificate shall expire on 21 June 2013 unless construction in respect of the Project has commenced by that date.