



LETTER DECISION

File OF-Fac-Gas-S402-2011-01 01
5 January 2012

Ms. Patricia Planting
St. Clair Pipelines L.P.
c/o St. Clair Pipelines Management Inc.
P.O. Box 2001
50 Keil Drive North
Chatham, ON N7M 5M1
Facsimile 519-358-4449

Dear Ms. Planting:

Hearing Order MHW-002-2011 regarding the Application of 2 May 2011 by St. Clair Pipelines Management Inc., on behalf of St. Clair Pipelines L.P. (St. Clair or Applicant) pursuant to subsection 74(1)(d) of the *National Energy Board Act* (Act) and section 50 of the *Onshore Pipeline Regulations, 1999* (OPR-99) to Abandon the Empire Odourant Station (Project)

APPLICATION

On 2 May 2011, St. Clair filed with the National Energy Board (Board) an application for leave to abandon the Empire Odourant Station (Station) located in Ontario in the Regional Municipality of Niagara. St. Clair provided odourization services to Empire State Pipeline (Empire) at the Station site since 1993. Empire, the sole customer served by the Station, terminated its service agreement with St. Clair effective 30 September 2010. As a result, the Station was no longer required.

St. Clair has proposed an abandonment plan for the Station. The plan involves dismantling, removing and disposing of all above- and below-ground infrastructure at the Station site. This infrastructure includes buildings, support equipment, piping, pumps, utility services and instrumentation. At the time of the Project application, certain works had already been completed related to removing odourant and disconnecting piping from the adjacent TransCanada PipeLines Ltd. (TCPL) facilities.

Pending a potential agreement between St. Clair and TCPL, TCPL may acquire ownership of the site and incorporate it into its Douglastown Sales Meter Station. The Board reminds St. Clair that subsection 74(1)(a) of the Act requires St. Clair to apply for leave of the Board to sell, transfer or lease the Station site.

This letter sets out the Board's Decision and Reasons for Decision with respect to the Project application.

ASSESSMENT OF APPLICATION

Consultation Matters

St. Clair submitted that it identified and consulted with all stakeholders (agencies, municipalities, local stakeholders and Aboriginal Communities). There are no outstanding concerns from stakeholders, including Aboriginal Communities.

The Board also notes that no stakeholders applied to be Intervenor in this hearing.

Environment Matters

As a responsible authority under the *Canadian Environmental Assessment Act* (CEA Act), the Board conducted an environmental screening of the Project. The Board determined that, with the implementation of St. Clair's environmental protection procedures and mitigation measures, as well as the Board's recommendations, the Project is not likely to cause significant adverse environmental effects.

Attached for St. Clair's use is a copy of the Board's Environmental Screening Report.

If TCPL acquires ownership of the site and incorporates it into its Douglastown Sales Meter Station, the Board is of the view that the site would continue to be useful in the form that it would be acquired. All planned ground disturbance would occur within the Station site and the site would remain graveled and fenced following abandonment activities. In these circumstances, it would not be necessary for St. Clair to reclaim the lands used for the Station.

However, if TCPL does not acquire ownership of the Station site, the Board would require that the site be reclaimed to a state that is satisfactory to the Board, and which is comparable with the surrounding environment. Pursuant to Condition 4(c) of the attached Order, St. Clair would be required to file a modified abandonment plan for the Station site, which would include a detailed description of how the site would be fully reclaimed.

Following abandonment activities, there will be no potential for future new contamination to occur that could be attributable to St. Clair's facilities as all above- and below-ground infrastructure (other than fencing) would be removed.

An outstanding issue is whether historic contamination currently exists at the Station site. There is no indication that such contamination is present; however, the Phase I Environmental Site Assessment (ESA) identified certain areas where, based on past activities, onsite equipment and observations, there is potential for historic contamination to exist. As a result, St. Clair has committed to undertake a Phase II ESA to further investigate that potential.

The Board notes that certain existing structures must be removed prior to St. Clair being able to complete its Phase II ESA work. As set out in Condition 3 of Order MO-029-2011, attached, the Board requires St. Clair to file the results of the Phase II ESA within 120 days of completing the abandonment activities. Condition 3 also requires St. Clair to file its plans with respect to conducting any additional assessments and remediation at the Station site so that the Board may assess whether proper measures are in place to clean up any discovered contamination. Furthermore, Condition 3 requires St. Clair to file information related to implementing groundwater monitoring, if warranted.

If contamination is discovered, the Board refers St. Clair to the Board's *Remediation Process Guide* (2011) which is aimed at providing guidance to industry with respect to documenting and conducting successful remediation.

In addition, if contamination is discovered, the Board will retain oversight of the Station site until it has been cleaned up to the Board's satisfaction.

Financial Matters

The Board requires all companies to demonstrate funding to cover post-abandonment activities. When a change in ownership of facilities is contemplated, the Board requires clarification of responsibility for that financial coverage. The letter from TCPL filed by the Applicant on 16 November 2011 reveals a gap in coverage of future liability related to future remediation events that may result from conditions existing in the land prior to title transfer. The Board requires assurance that the liabilities for post-abandonment activities are covered, whether the liabilities will be covered by St. Clair, TCPL, or both. Condition 5 of the Order requires the Applicant to demonstrate to the Board that there is adequate coverage for future financial liabilities.

DECISION

The Board has considered the application pursuant to subsection 74(1)(d) of the Act, and has issued the attached Order MO-029-2011, the effect of which is to grant leave to abandon the Station, subject to conditions. The Board retains jurisdiction over St. Clair's activities at the site until all conditions of the Order are met to the satisfaction of the Board.


G. A. Habib
Member

Calgary, Alberta
January 2012

Letter Decision
MHW-002-2011
Page 3 of 3