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To: All NEB-Regulated Companies

Additional Information Requirements Relating to Fish and Fish Habitat and Navigation for Notifications of Operations and Maintenance (O&M) Activities.

Background

In 2012, the National Energy Board (NEB or the Board) released a revised version of the *Operations and Maintenance Activities on Pipelines Regulated under the National Energy Board Act: Requirements and Guidance Notes* (O&M Guidelines) effective 1 January 2013. In accordance with the O&M Guidelines, companies must provide notification to the Board of O&M activities involving ground disturbance using power-operated equipment within 30 metres (m) of a wetland or a water body, or within 30 m of the substrate of a wetland or water body.

As a result of the *Jobs, Growth and Long-term Prosperity Act*, amendments have been made to the *National Energy Board Act* (NEB Act) and the *Canada Oil and Gas Operations Act* (COGOA) related to navigation and navigation safety. These changes came into force on 3 July 2013 and require the NEB to take into account effects on navigation and navigation safety for NEB-regulated pipeline and power line crossings of navigable waters.

On 16 December 2013, the NEB and Fisheries and Oceans Canada (DFO) entered into a Memorandum of Understanding (MOU) regarding fish and fish habitat. Through this MOU, the NEB is responsible for assessing potential impacts to fisheries for NEB-regulated pipeline and power lines.

Board Action

As a result of the legislative changes and in accordance with the MOU, the Board seeks to clarify what information the Board requires to meet its responsibilities for fish and fish habitat and navigation for notifications of O&M activities.

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The attached **Appendix 1** outlines the additional information that the Board requires companies to provide with their notification of O&M activities involving ground disturbance using power-operated equipment within 30 m of a wetland a water body, or within 30 m of the substrate of a wetland or water body, made pursuant to the O&M Guidelines.

For questions or further clarification, please contact Luc Rainville, Environmental Specialist / Operations Project Manager, at 403-299-3865.

Yours truly,

Original signed by

Sheri Young
Secretary of the Board

Attachment

APPENDIX 1

Additional Information Requirements for Operations and Maintenance Activity Notifications – Fish and Fish Habitat, and Navigation and Navigation Safety

Fish and Fish Habitat

Note: You must answer 1 and 2 below, and if required, 3.

1. *Access* – Will there be ground disturbance using power-operated equipment within 30 m of a wetland or a water body, or within 30 m of the substrate of a wetland or water body, while accessing the site? If yes, proceed to 1(a), (b) and (c), below. **If no, no further access information is required.**
 - a. How many new temporary and/or permanent vehicle crossings will be required when accessing the activity site?
 - b. Will all applicable DFO measures to avoid and mitigate harm to fish and fish habitat¹ be followed? **If no, provide the detailed information listed in 3.**
 - c. Are there species present which are listed on Schedule 1 of the *Species at Risk Act*? **If yes, provide the detailed information listed in 3.**
2. *Activity Site* – Will there ground disturbance using power-operated equipment within 30 m of a wetland or water body, or within 30 m of the substrate of a wetland or water body at the activity site? If yes, proceed to 2(a), (b), (c) and (d) below. **If no, no further activity information is required.**
 - a. Is the wetland or water body fish bearing? **If no, no further activity information is required.**
 - b. Will there be work carried out instream? **If no, no further activity information is required.**
 - c. Will all applicable DFO measures to avoid and mitigate harm to fish and fish habitat be followed? **If no, provide the detailed information listed in 3.**

¹ The DFO measures to avoid and mitigate harm to fish and fish habitat can be found at <http://www.dfo-mpo.gc.ca/pnw-ppe/measure-mesures/measure-mesures-eng.html>

- d. Are there species present which are listed on Schedule 1 of the *Species at Risk Act*? **If yes, provide the detailed information listed in 3.**

3. Detailed Information Requirements when required by 1(b), 1(c), 2(c), or 2(d):

- a. Start and end dates for the activity;
- b. Start and end dates for any restricted activity periods for the wetland or water body;
- c. Details of any instream work;
- d. Design drawing;
- e. Fish and fish habitat study;
- f. Discussion on potential impacts to fish and fish habitat;
- g. Details of site-specific measures that will be implemented to avoid serious harm to fish and fish habitat;
- h. Project planning;
- i. Photos; and
- j. Details of any other permits that may be required (e.g. provincial water permits).

Navigation and Navigation Safety

- 4. Navigation and Navigation Safety** – Will a navigable water body be crossed while accessing the site or will there be ground disturbance or activity within or across a navigable water body's wetted perimeter? If yes, proceed to 4(a) and (b) below. **If no, no further navigation information is required.**
- a. Will the activity, including all in-stream restoration and removal of construction debris, be carried out while the navigable water body is frozen or seasonally dry?
 - b. Will all activities with the potential to impact navigation and navigation safety meet the criteria of Transport Canada's Minor Works Order², as amended? **If no, provide the detailed information listed in 5.**

² The Minor Works Order can be found within the following link: <http://www.gazette.gc.ca/rp-pr/p1/2014/2014-04-19/html/notice-avis-eng.php>

5. Detailed Information Requirements when required by 4(b):

- a. A listing of navigable waterways that may be affected by the activity;
- b. The waterway characteristics for each navigable waterway that may be affected by the activity;
- c. Description of the activities and crossings that may affect navigation;
- d. Description of potential waterway use and any consultation conducted with waterway users and Aboriginal groups regarding navigational use;
- e. Description of project effects on navigation and navigation safety; and
- f. Details of site-specific mitigation measures that will be implemented to address these effects.