



## INSPECTION OFFICER ORDER NO. PRY – 001 – 2023

IN THE MATTER OF THE CANADIAN ENERGY REGULATOR ACT,  
AN ORDER UNDER SECTION 109

### NAME OF PERSON TO WHOM THIS ORDER IS DIRECTED

**Blue Tec Construction Inc.** is a Company conducting work near a federally regulated pipeline located at 1565 Thornton Road North, Oshawa, Ontario (the Site).

On or about 29 August 2023 at 10:00 am the undersigned Canada Energy Regulator (CER) Inspection Officer conducted a compliance verification activity (CVA2324-151) at the Site following the report to the CER (DPR2023-232) made by Trans-Northern Pipelines Inc. (TNPI) regarding alleged contraventions of the *Canadian Energy Regulator Damage Prevention Regulations – Authorizations* (DPR-A).

### RELEVANT FACTS

I, [REDACTED], designated as a CER Inspection Officer under subsection 102(1) of the *Canadian Energy Regulator Act* (CER Act), believe the following are the relevant facts relating to the issuance of this Order:

Blue Tec Construction Inc. is a company conducting work associated with the operation of mobile equipment (i.e. excavator) and ground disturbance near a federally regulated pipeline located at 1565 Thornton Road North, Oshawa, Ontario.

On or about **29 August 2023** at 10:00 am the undersigned Canada Energy Regulator (CER) Inspection Officer was conducting field follow-up of reported potential contraventions of the *Damage Prevention Regulations – Authorizations* (2023-232) by a third party at 1565 Thornton Road North, Oshawa, Ontario. Upon arrival at the Site, Inspection Officers noticed that there was evidence of recent third-party activity within the prescribed area, which included topsoil removal and ground disturbance which had the potential to cause damage to the TNPI federally regulated pipeline.

CER Inspection Officers confirmed the third party to be Blue Tec Construction Inc. CER Inspection Officers obtained from Blue Tec Construction Inc., 3 unique pipeline location reports dated August 12, 2022, June 1, 2023, and August 24, 2023. Upon examination, it was evident that on the August 24, 2023, revision, the location and orientation of the pipeline on the sketch had changed and pipeline was now depicted as protruding into Blue Tec Construction Inc's

worksite. On the June 1<sup>st</sup> locate report the pipeline was shown to run in a straight line outside of the worksite boundary.

Further, the activity at the Site had been ongoing for a period approaching two months, during which time neither the TNPI's aerial patrol nor ground patrol identified it as unauthorized activity. TNPI reported the activity to the CER on 24 August 2023, the day the original locate diagrams were revised. The ground disturbance activity conducted by Blue Tec Construction Inc. resulted in significant removal of earth cover directly over the pipe, leaving only approximately 6 inches of earth cover in some areas. CER Inspection Officers observed a 15-meter restricted zone demarcating the affected section of the pipe.

### **PROVISIONS OF ACT OR REGULATIONS THAT ARE ALLEGED TO BE CONTRAVENED - AND ARE CONTINUING - OR ARE LIKELY TO BE CONTRAVENED**

The following provisions of the Act and/or Regulations that are alleged to have been contravened:

1. Canadian Energy Regulator Pipeline Damage Prevention Regulation – Authorizations (DPR–A) section 10 (1)(a)(c) For the purposes of subsection 335(1) of the Act, any activity — in an area other than an offshore area — that would cause a ground disturbance within the prescribed area, other than an activity referred to in section 11, is authorized if the person that intends to engage in the activity
  - (a) obtains the pipeline company's written consent; and
  - (c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the Canadian Energy Regulator Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies.
2. DPR–A section 10(3)(c)(ii) (iii) Any person that is engaged in an activity that causes a ground disturbance within the prescribed area must comply with the following measures:
  - (c) not undertake mechanical excavation that would cause a ground disturbance within the prescribed area within 3 m of a pipe, unless
    - (ii) if the excavation crosses the pipe, the pipe has been exposed by hand at the point of crossing or the pipeline company has used a method that would permit it to confirm the pipe's exact location, has informed the person of that location and has confirmed that the pipe is at least 60 cm deeper than the proposed excavation, and
    - (iii) if ground conditions render it impractical to locate the pipe using any of the methods set out in subparagraphs (i) and (ii), the pipeline company directly supervises any excavation;
3. DPR–A section DPR–A section 12

Subject to section 13 and for the purposes of paragraph 335(2)(a) of the Act, the operation of a vehicle or mobile equipment across a pipeline is authorized if the person

that intends to operate the vehicle or mobile equipment across the pipeline obtains the pipeline company's written consent.

4. CER Act section 335 (1)

It is prohibited for any person to construct a facility across, on, along or under a pipeline or engage in an activity that causes a ground disturbance within the prescribed area unless the construction or activity is authorized or required by the orders made under subsection (3) or (4) or regulations made under subsections (5) or (6) and done in accordance with them.

### MEASURES TO BE TAKEN

Based on the facts referenced herein, where the Inspection Officer has reasonable grounds to believe that there is or is likely to be a contravention of Parts 2 to 5 or section 335 of the CER Act, or for a purpose referred to in subsection 102(2) CER Act, as is the case here, the Inspection Officer may, by order, direct a person to

- a. stop doing something that is in contravention of Parts 2 to 5 or section 335 or cause it to be stopped;
- b. take any measure that is necessary in order to comply with Parts 2 to 5 or section 335 or mitigate the effects of non-compliance;
- c. stop doing something that may cause a hazard to the safety or security of persons, or damage to property or the environment or cause it to be stopped; or
- d. take any measure that is necessary to prevent or mitigate the hazard to the safety or security of persons or damage to property or the environment.

**Blue Tec Construction Inc.** is ORDERED pursuant to subsections 109(1) and 109(2) of the CER Act to:

- Take measures specified below under Specified Measures as per paragraphs (b) and (d) above
- Stop doing something as specified below under Specified Measures as per paragraphs (a) and (c) above
- Suspend work associated with a facility, including a regulated facility, abandoned facility or ground disturbance, until the hazardous or detrimental situation has been remedied to the satisfaction of an Inspection Officer or until this order is stayed or rescinded.

### SPECIFIED MEASURES

1. Blue Tec Construction Inc. is required to suspend all entry and all work activities within the established 15-meter restricted zone until the hazardous or detrimental situation has been remedied to the satisfaction of a CER inspection officer.
2. Confirm via email response that the Inspection Officer Order has been received and is understood.

**EFFECTIVE DATE OF THE ORDER**

This Inspection Officer Order takes effect immediately on 30 August 2023 at the time of delivery of this Order to the person to whom it is directed. Nothing in this Order shall be construed as reducing, increasing, or otherwise affecting what may be required of the person to whom it is directed to comply with all applicable legislative or legal requirements.

**COMPLIANCE WITH THIS INSPECTION OFFICER ORDER IS MANDATORY**

Failure to comply with an Inspection Officer Order issued under section 109 of the CER Act is an offence under section 112 of the CER Act.

<b>Inspection Officer</b>	30 August 2023	[REDACTED]
	<b>Date</b>	<b>Name</b>
	[REDACTED]	X [REDACTED]
	<b>IO Designation Number</b>	<b>Signature</b>
	210 - 517 10 Ave SW Calgary AB T2R 0A8	

*Please note that:*

1. *In compliance with the CER's Enforcement Policy, this Order will be posted on the CER's website.*