



Mackenzie Valley Land and Water Board
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Staff Report

Applicant: Enbridge Pipelines (NW) Inc.	
Location: Fort Simpson, NT	Application: MV2017P0013 and MV2017L1-0002
Date Prepared: August 21, 2017	Meeting Date: September 1, 2017
Subject: Joint letter from Łı́ıdlı́ı Kúé First Nation and Samba K'e First Nation and Letter from Imperial Oil – Comments about the Review Process for the Line 21 Segment Replacement Project	

1. Purpose/Report Summary

The purpose of this Report is to present to the Mackenzie Valley Land and Water Board (MVLWB/the Board) correspondence that was received in early August from Imperial Oil and Łı́ıdlı́ı Kúé First Nation (LKFN) and Samba K'e First Nation (SKFN) regarding the regulatory review processes (MVLWB and National Energy Board (NEB)) for the Enbridge Pipelines (NW) Inc. (Enbridge) Line 21 Segment Replacement Project.

The Board may wish to formally respond to the letter from the LKFN and SKFN that was addressed to the MVLWB.

2. Background

- March 23, 2017 – New Permit and Licence Applications received;
- March 31, 2017 – Applications deemed incomplete;
- April 19, 2017 – Applications deemed complete and review commenced;
- May 15, 2017 – Reviewer comments and recommendations due and received;
- May 18, 2017 – Responses received;
- May 25, 2017 – Board invokes paragraph 22(2)(b) of the Mackenzie Valley Land Use Regulations (MVLUR) and issues two Information Requests (IR); IR 1 to Enbridge and IR 2 to LKFN;
- June 7, 2017 – IR 1 responses due and received;
- June 15, 2017 – Reviewer comments and recommendations on IR 1 due and received;
- June 20, 2017 – Dehcho First Nations (DFN) comments on Enbridge’s response to IR 1 received (late); and IR 2 response due and received;
- June 21, 2017 – Responses to reviewer comments received from Enbridge on IR 1;
- July 20, 2017 – Board directed Board staff to provide Enbridge an opportunity to respond to DFN’s June 20, 2017 comments on IR 1;
- July 21, 2017 – Enbridge submitted response to DFN’s June 20, 2017 comments;
- July 26, 2017 – NEB released notice to parties of postponement of the concurrent NEB process;
- August 1, 2017 – Letter received from LKFN and SKFN regarding the regulatory process for the Line 21 Segment Replacement Project;

- August 3, 2017 – Letter received from Imperial Oil (addressed to the Minister of Natural Resources Canada; copied to MVLWB Executive Director) regarding the regulatory process for the Line 21 Segment Replacement Project;
- August 3, 2017 – Board determines that section 157.1 of the *Mackenzie Valley Resource Management Act* (MVRMA) applies to this project (project exempt from preliminary screening);
- August 10, 2017 – Draft Work Plan distributed for review;
- August 16, 2017 – Comments due on draft Work Plan;
- August 17, 2017 – Draft Work Plan approved by the Board;
- August 21, 2017 – NEB sends response letter to Imperial Oil (copied to MVLWB Chair); and
- **September 1, 2017 – Draft letter from the Board in response to LKFN and SKFN letter presented to the Board for consideration.**

3. Discussion

On March 23, 2017, Enbridge submitted applications to the MVLWB in support of conducting off Right-of-Way activities for the maintenance of the Norman Wells (Line 21) pipeline between Norman Wells, NT and the Alberta/NT border near Fort Simpson, NT. On March 10, 2017, Enbridge also filed applications with the NEB to install a new segment of pipe (pursuant to section 58 of the *National Energy Board Act*) and to decommission the existing segment of pipe (pursuant to section 45.1 of the *Onshore Pipeline Regulations*).

The public review of the applications submitted to the MVLWB and associated draft permit and licence conditions began April 19, 2017. Since that time there have been numerous opportunities for parties to comment on various aspects of the MVLWB regulatory process (as presented in the Background section of this Staff Report). Furthermore, in view of the multi-jurisdictional nature of the Line 21 Segment Replacement Project, Board staff and NEB staff have maintained regular contact to provide updates on the respective files and clarify areas for coordination where practicable.

The NEB issued a Hearing Order on May 18, 2017, outlining its steps and deadlines leading up to a public hearing and subsequent decision on the Enbridge applications before them. At that time, it was expected the NEB public hearing would be held during the week of August 8, 2017. On July 26, 2017, the NEB released a notice to parties postponing the hearing, pending the MVLWB making its determination on applicability of section 157.1 of the MVRMA. In response to this postponement, Imperial Oil sent a letter to the Minister of Natural Resources Canada (attached) stating, “The delay has resulted in significant impacts on Imperial’s business, the community of Norman Wells and the Northwest Territories.” The MVLWB Executive Director was one of several individuals copied on the letter. The NEB sent a response to Imperial Oil (with copy to the Board Chair) on August 21, 2017 (attached).

On August 1, 2017 LKFN and SKFN submitted a joint letter to the Board, the NEB and various territorial and federal Ministers (attached) outlining concerns related to the need for a harmonized review process, Aboriginal consultation and the Line 21 Segment Replacement Project in general. Two days following receipt of the letter, at a previously scheduled Board meeting, the Board made a determination that section 157.1 of the MVRMA applies to the Project and, as such, that the Board’s regulatory process could continue. At that same meeting, the Board directed staff to organize a formal public hearing for the Board to hear concerns and recommendations from interested parties prior to considering the issuance of the land use permit and water licence.

In response, and following discussions with NEB staff, Board staff developed a draft Work Plan that was distributed for public review on August 10, 2017. By August 16, 2017, comments on the draft Work Plan were received from SKFN and GNWT-Lands (Environment and Climate Change Canada

provided a “no comment” submission). In general, reviewers expressed support for the timelines set out and their intent to participate in the process, and acknowledged the efforts and need to coordinate the MVLWB and NEB processes. The draft Work Plan for the Line 21 Segment Replacement Project was approved by the Board on August 17, 2017 (attached).

4. Reviewer Comments

Not applicable.

5. Conclusion

The letter received from Imperial Oil was copied to the MVLWB Executive Director and primarily addressed the company’s concerns with delays in the NEB process. As such, Board staff are of the opinion that it can be considered an information item for the Board that does not require follow-up.

With respect to the joint letter from LKFN and SKFN, addressed to the Board Chair (as well as the NEB Chair and various territorial and federal Ministers), and in view of the recent decisions made by the Board regarding the ongoing regulatory process for the Line 21 Segment Replacement Project, the Board may wish to respond to the concerns raised by providing an update on the review process. A draft letter to this effect is provided for the Board’s consideration (attached).

6. Staff Recommendation

Staff recommend that the Board consider the draft letter prepared and provide a formal response to the LKFN and SKFN.

7. Attachments

- Letter from Imperial Oil (received by e-mail August 3, 2017)
- Letter from LKFN and SKFN (received by e-mail August 1, 2017)
- Letter from NEB to Imperial Oil (received by e-mail August 21, 2017)
- [Draft Work Plan approved by the Board](#)
- Draft Response Letter from the Board

Respectfully submitted,



Shelagh Montgomery
Regulatory Manager