



Mackenzie Valley Land and Water Board
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Staff Report

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| Applicant: Enbridge Pipelines Inc. | |
| Location: Fort Simpson, NT | Application: MV2017P0013 |
| Date Prepared: May 19, 2017 | Meeting Date: May 25, 2017 |
| Subject: Land Use Permit Application – Further Studies Required | |

1. Purpose/Report Summary

The purpose of this Report is to request that the Mackenzie Valley Land and Water Board (MVLWB/the Board) consider that further studies or investigations be made for the Type A Land Use Permit (Permit) Application MV2017P0013 as per paragraph 22(2)(b) of the Mackenzie Valley Land Use Regulations (MVLUR). This will allow for additional time to gather information respecting the lands proposed to be used in the land use operation and in conjunction with the associated Type B Water Licence (Licence) Application MV2017L1-0002. These Applications were submitted by Enbridge Pipelines Inc. (Enbridge) in support of conducting off right-of-way activities for the maintenance of the Norman Wells (Line 21) pipeline from Norman Wells, NT to the Alberta/Northwest Territories border near Fort Simpson, NT.

2. Background

- March 23, 2017 – New Permit and Licence Applications received;
- March 31, 2017 – Applications deemed incomplete;
- April 19, 2017 – Additional information was received to clarify eligibility and Applications deemed complete and review commenced;
- April 25, 2017 – Enbridge submits additional information to support their Applications;
- May 5, 2017 – Enbridge submits additional information to support their Applications;
- May 9, 2017 – Request to extend the reviewer comment deadline was received from Liidlii Kue First Nation and granted by Board staff;
- May 15, 2017 – Reviewer comments and recommendations due and received;
- May 18, 2017 – Deadline for Proponent responses;
- **May 25, 2017 – Board staff recommendation to invoke paragraph 22(2)(b) of the MVLUR presented to the Board for decision; and**
- May 31, 2017 – End of 42-day deadline for the Application.

3. Discussion

Applications

Enbridge submitted Applications for a Permit (MV2017P0013) and a Licence (MV2017L1-0002) on March 23, 2017 (attached) to conduct off right-of-way activities for the maintenance of the Norman Wells (Line 21) pipeline from Norman Wells, NT to the Alberta/Northwest Territories border near Fort Simpson, NT (the Project).

The existing Line 21 pipeline extends from Norman Wells, NT to Zama, Alberta, a total length of 869 km. In 2016, through regular maintenance and inspection, increased rates of slope movement were identified near the Mackenzie River crossing, approximately 9 km east of Fort Simpson, NT. In order to protect the pipeline from the impacts of further slope movement, and to support continued safe operation of the pipeline, Enbridge is proposing to replace a segment of the existing pipeline under the Mackenzie River. The Project includes installation of up to 2500 meters of new pipeline below the Mackenzie River, using a Horizontal Directional Drilling (HDD) method. The existing segment of pipe will be decommissioned in place.

The Project consists of the following components:

- Site clearing off the existing pipeline right-of-way;
 - Improvements to the shoofly access on the north shore and an all-weather access road (mat road) on the existing south right-of-way (includes installing a temporary clear span bridge over Manners Creek and rig matting over other watercourse crossings with the potential use of culverts if required);
 - Clearing of vegetation from the work sites and camp areas; and
 - Construction of camps, staging area, barge landing, and wellsites.
- Mobilization of equipment;
 - Set up drills and supporting equipment.
- The use of water for drilling fluid make-up water, hydrostatic testing, and to support camp operations;
- HDD on either side of the Mackenzie River;
- Site Restoration; and
 - Surface grades and drainages will be restored;
 - Excavations will be backfilled;
 - Brushing and peat will be rolled back over disturbed;
 - Access mats and the clear span bridge will be removed;
 - The north shore shoofly access and the north shore barge landing will be remediated; and
 - Erosion and sediment controls will be installed.
- Demobilization.

External Applications

On March 10, 2017, Enbridge filed applications with the National Energy Board (NEB) as follows:

- An application to install the new segment of pipe, pursuant to section 58 of the *National Energy Board Act*; and
- An application to decommission the existing segment of pipe, pursuant to section 45.1 of the Onshore Pipeline Regulations.

4. Reviewer Comments

By May 15, 2017, comments and recommendations on the Applications were received from 7 reviewers:

- Dehcho First Nations (DFN);
- Liidlii Kue First Nation (LKFN);
- Sambiaa Ke First Nation (SKFN);
- Environment and Climate Change Canada (ECCC);
- Government of Northwest Territories (GNWT) - Department of Lands (Lands);
- Imperial Oil Resources; and
- Board staff.

On May 9, 2017, LKFN requested an extension to the review comment deadline, as they were seeking more time to review the additional information submitted by Enbridge on April 25 and May 5, 2017. To meet the 42-day legislated timeline to review the Permit Application, Board staff approved a 6-day extension, requiring comments to be submitted on May 15, 2017 rather than May 9, 2017.

Enbridge responded and the following highlights the major concerns which were raised during the review of the Applications:

Section 157.1 of the Mackenzie Valley Resource Management Act (MVRMA)

On May 15, 2017, GNWT-Lands submitted additional comments to the Board related to the potential exemption of the Applications from Part 5 of the MVRMA.

GNWT-Lands ID 38: Potential exemption from Part 5 of the MVRMA

Comment: The Board's instructions to reviewers include the statement that under the Preliminary Screening Requirement Regulations of the Mackenzie Valley Resource Management Act (MVRMA), the Board must conduct a preliminary screening for an application for a proposed development that requires a Permit or Licence, unless it is exempt from Part 5 of the MVRMA.

Section 157.1 of the MVRMA states that

Part 5 does not apply in respect of any licence, permit or other authorization related to an undertaking that is the subject of a licence or permit issued before June 22, 1984, except a licence, permit or other authorization for an abandonment, decommissioning or other significant alteration of the project.

Recommendation: Enbridge's Line 21 project is an undertaking that is the subject of a licence or permit issued before June 22, 1984. GNWT strongly encourages the MVLWB to take the appropriate steps to determine whether section 157.1 applies to the applications currently under consideration.

Board staff recommendation:

- Request further information from all reviewers and Enbridge to clarify their positions on whether or not section 157.1 of the MVRMA is applicable.

Compensation

On May 15, 2017, LKFN submitted additional comments to the Board stating that they must be compensated and expressing concerns about security calculations. Comments include the following (emphasis has been added by Board staff):

LKFN ID 14: Scope of Project

Comment: LKFN supports that the project is a "new" segment of pipeline. LKFN must be compensated for this project. No waste shall be deposited into any waters without consent of the LKFN. Increased community anxiety exists due to unknown activities which have potential to negatively impact land users' health or the health of LKFN resources. Rationale is also relative to cumulative effects and increased contaminant loading as well as historical contaminated sites increasing in our area. The scope of the pro [*sic*]

Recommendation: LKFN shall be notified on deposit of waste. In order for LKFN to understand and be aware of cumulative impacts and to ensure the project is not contributing to increasing disturbance, LKFN would like a more in-depth inventory of contaminated sites that are near within the Dehcho region.

LKFN ID 19: Security

Comment: It is critical that LKFN is compensated and included in the formation of the security as well as reclamation plans to determine the security and reclamation liability. The burden of the project lies heavily on LKFN and so, the security must reflect satisfactorily to LKFN that, our land and resources continue into the future.

Recommendation: LKFN recommends full participation, inclusion and development of the security and reclamation liability including fairness and equity to LKFN Values and the consideration of depletion of our way of life.

LKFN ID 20: Water Use

Comment: LKFN must be compensated for water use and to ensure that our waters. LKFN is concerned on seasonal water withdrawal due to forage fish and spawning fish seasons as well as aboriginal fisheries, commercial and recreational fisheries.

Recommendation: LKFN recommends more indepth research into potential spawning and migration of fish species that are important to LKFN values.

Board staff recommendation:

- Require further information from LKFN on specific components of this compensation claim;
- Require further information from parties to clarify security reclamation calculations.

Technical Concerns

By May 15, 2017, review comments were submitted to the Board which were of a technical nature. Comments include:

GNWT-Lands ID 8: Topic 7: Drilling Waste

Comment: Page 21 lists three options for drilling waste: disposal to sump, centrifuged with dry material removed from site, or all material removed from site. Specific details are required regarding the sump, sump location and closure of the sump should it be used for disposal of drilling waste. This information should be provided and assessed prior to licensing.

Recommendation: 1) ENR requests that the proposed location, size, capacity and closure methods for the drilling waste sump be provided to the Board and reviewers as a contingency should Enbridge determine to dispose of drilling waste in this manner during, or after the project.

GNWT-Lands ID 13: Topic 12: Appendix V, 6.3: Inadvertent Return of Drilling Fluid

Comment: The application states the following: “Procedures for dealing with an identified or suspected release of drilling fluid or loss of circulation will be outlined in the Inadvertent Drilling Fluid Return Contingency Plan to be provided by the Contractor. This contingency plan will be appended to the project’s Environmental Protection Plan (EPP).”

Recommendation: 1) It is recommended the Inadvertent Drilling Fluid Return Contingency Plan be submitted to the Board for review prior to the onset of project activities. 2) Will a potential release of drilling fluid change section 6.2 Spills on Water, in regards to spill response, or will such a release require additional specialized equipment? How will such releases be monitored and reported to the Board and the Inspector(s) to determine changes in water quality? The details of how Enbridge will respond to a release of this nature should be provided to the Board.

GNWT-Lands ID 14: Topic 13: Appendix III, 4.4: Water Quality and Quantity

Comment: The application states the following: “HDD activities in the Project Footprint under the bed of the Mackenzie River are not planned to interact with the quality or quantity of water in the river. However, there is potential for HDD activities under the bed of the Mackenzie River to interact with Water quality of the Mackenzie River in the Project Footprint and/or downstream in the Regional Study Area, including in the event of an inadvertent release of drilling fluids during HDD activities”.

Recommendation: It is recommended that, because of the possibility of releases to surface waters, water quality sampling be conducted upstream and downstream from the area where the releases may occur to provide baseline information on water quality, as well as information during operations.

GNWT-Lands ID 35: Topic 34: Water Licence and Land Use Permit Security

Comment: The GNWT is aware that an estimate was prepared for the proposed work by Enbridge, but that the proponent used an estimator tool generally utilized for smaller undertakings not requiring a Water Licence. The GNWT notes that it has a RECLAIM Model for Oil and Gas related activities that should be used to calculate security for the proposed project. This model assesses the liability associated with the undertaking and provides the ability to split security between Land and Water related liabilities.

A review of the application package and questionnaire has identified insufficient information for the GNWT to conduct a thorough estimate of security for the proposed undertaking. The GNWT is requesting that Enbridge use RECLAIM Model v. 7.0 (Oil and Gas Version) to estimate the security associated with the proposed project. Enbridge will require to provide additional information and supporting documentation to support its estimate as additional information is required in order to complete the estimate. The GNWT notes that some of this information may be similar to the additional information requested from the NEB; however, all information should be provided to support the RECLAIM estimate.

Specifically, information is required on the anticipated volume of drill cutting, drill fluids and their associated disposal method. Other information needed from Enbridge includes, but may not be limited to, the following:

- the total number of buildings and building types used for the camps;
- distance from each camp to the nearest community;
- the number of drilling fluid tanks and fuel tanks that will be needed for the drilling activity;
- the number of refueling areas and locations;
- the type and number of stream crossings;
- all anticipated remediation requirements, including any contaminated soil/material;
- the anticipated post activity land and water monitoring requirements;
- the number of trucks required to mobilize and demobilize equipment and project infrastructure.

Recommendation: The GNWT recommends that Enbridge conduct an estimate of security using the RECLAIM Model v.7.0 (Oil and Gas Version). This will assist the Board in assessing the amount of security required under the water licence and land use permit. Along with the completed spreadsheet, Enbridge should provide all supporting information and associated rationale needed to complete the estimate, including the various items identified by the GNWT.

LKFN ID9: Missing Information

Comment: NEB has determined that (with respect to Enbridge's Geotechnical Report on Proposed Directionally Drilling Crossing, Mackenzie River Crossing, KP 529 Enbridge Line 21 Final Report) the following information is needed - a description of the contingency plan to be used if the horizontal directional drill is not successful.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 19: Security

Comment: It is critical that LKFN is compensated and included in the formation of the security as well as reclamation plans to determine the security and reclamation liability. The burden of the project lies heavily on LKFN and so, the security must reflect satisfactorily to LKFN that, our land and resources continue into the future.

Recommendation: LKFN recommends full participation, inclusion and development of the security and reclamation liability including fairness and equity to LKFN Values and the consideration of depletion of our way of life.

LKFN ID 25: Aquatic Effects Monitoring Program

Comment: LKFN has a history of monitoring that was scaled back and eliminated from Enbridge Line 21 recently prior to the incident that resulted in the preventative shutdown of the pipeline. We are concerned of the timing in-which our monitoring program was shutdown in relation to the incident without explanation as to why our perspective is not considered as important to the overall operation and maintenance of the project. LKFN's participation, accommodation and inclusion is critical to ensuring the project is managed to LKFN satisfaction because we are the most impacted community in relation to the project.

Recommendation: LKFN expects fairness and equity in the facilitation, development and management of an AEMP. Our rationale is, that the process allows for self monitoring and management of plans that do not reflect our inherent Rights and Treaty Rights.

SKFN ID 1: HDD Failure and Contingency Crossing Method

Comment: The Water Quality and Quantity section of Table 5.3 (Identification of Potential Residual Effects) of the Socio-Economic Assessment included in the Application (Appendix III) states that "if the HDD crossing was unsuccessful, then a contingency crossing method will be implemented." This contingency crossing method is not even mentioned anywhere else in the Application. If Enbridge is not confident in the success of the HDD method, they must outline the possible contingency crossing methods along with an evaluation of their potential impacts on water quality in the Mackenzie River. Furthermore, the risks to water quality from a failed HDD attempt and a contingency plan must be outlined in detail.

Recommendation: SKFN recommends that Enbridge provide details on considered contingency crossing methods and outlines of their risks to water quality. Enbridge should also provide further detail on the risks to water quality in the Mackenzie

River in the event of a failed HDD attempt and include a contingency plan for dealing with this failure.

SKFN ID 5: Drilling Fluid Spills

Comment: P. 10 of the project Spill Contingency Plan (SCP) (Appendix V of the Application) states that "procedures for dealing with an identified or suspected release of drilling fluid or loss of circulation will be outlined in the Inadvertent Drilling Fluid Return Contingency Plan to be provided by the Contractor." Large volume spills of mud into the Mackenzie River will impact water quality and fish/fish habitat, and the contents of this Contingency Plan should be made available for MVLWB and public review.

Recommendation: SKFN recommends that Enbridge obtain the Inadvertent Drilling Fluid Return Contingency Plan from the Contractor and provide it as supplemental information to the Application for review through the MVLWB process.

Board staff recommendation:

- Request further information from reviewers and Enbridge on these specific components.

Aligning MVLWB Process with NEB

By May 15, 2017, several review comments submitted to the Board recommended aligning the MVLWB and NEB processes:

GNWT-Lands ID 39: Mackenzie Valley Land Use Regulations, par. 22(2)(b)

Comment: On March 10, 2017, Enbridge applied to the National Energy Board (NEB) for authorizations in relation to the Line 21 replacement project. On March 16, 2017, the NEB wrote to the MVLWB to extend an invitation to coordinate the two boards' required review processes. The GNWT expressed its support for these process coordination efforts in its March 28, 2017 request to intervene in the NEB proceeding.

Recommendation: The GNWT recommends that the MVLWB invoke paragraph 22(2)(b) of the Mackenzie Valley Land Use Regulations, if required in order to determine the applicability of MVRMA s. 157.1 and to coordinate the NEB and MVLWB processes. With respect to a land use permit application, this provision provides for the MVLWB to, in certain circumstances: conduct a hearing under section 24 of the Act or require that further studies or investigations be made respecting the lands proposed to be used in the land-use operation and notify the applicant in writing of the reasons for the hearing, studies or investigations; GNWT notes that the MVLWB has discretion under the MVRMA to determine what actions are appropriate for the Board to take under paragraph 22(2)(b).

LKFN ID 13: Harmonization

Comment: Parallel processes involving Mackenzie Valley Boards and NEB will place extraordinary demands on LKFN.

Recommendation: Mackenzie Valley Board and NEB determine how to carry out a harmonized review of the project, and provide sufficient capacity to LKFN to participate in such review.

SKFN ID 8: Coordination with National Energy Board Process

Comment: The MVLWB approval process and the NEB approval process are not moving forward on the same timelines. MVLWB has until May 30th to either: issue the licence and permit; order a Public Hearing be held or further studies or investigations be done; refer the application for environmental assessment; or refuse to issue the licence and permit. However, the NEB process is stalled due to insufficient provision of information by Enbridge in their application. As of May 8th 2017 NEB has not even set a hearing date. Although the two processes cover different aspects of the project, there is overlap between the two areas. For example, one of the areas in which NEB is requesting more information from Enbridge is on the feasibility of the drilling process. Issues with drilling underneath the Mackenzie River (covered by NEB) could lead to significant risks to water quality (as discussed above) which is covered by MVLWB. The division of the regulatory process for this project poses a challenge to stakeholders, who are less able to engage in meaningful consultation without a complete picture of the project under discussion. The division of the consultation process across separate timelines also places an unfair burden on First Nations stakeholders who may have limited resources available to engage with projects.

Recommendation: SKFN recommends that MVLWB harmonize their process with the NEB process (in line with the Memorandum of Understanding between the two Boards) in order to take concerns from stakeholders during that process into account and to reduce the burden of parallel processes on stakeholders. SKFN recommends that MVLWB order a Technical Workshop and Public Hearing to address listed stakeholder concerns, and that the two Boards consider holding their Technical Workshops and Public Hearings jointly.

Board staff recommendation:

- Endeavor, if practicable, to align the MVLWB process with the NEB process to take into consideration concerns raised by reviewers during the NEB process and to reduce the burden of parallel processes on stakeholders.

Requesting MVLWB Refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment

By May 15, 2017, review comments were submitted to the Board recommending an Environmental Assessment:

DFN ID 2: Opening

Comment: Dehcho First Nations (DFN) has completed a preliminary review of the Enbridge Pipelines Inc. - New Land Use Permit and Water License Applications (MV2017P0013 and MV2017L1-0002) (“the Applications”) for the Line 21 Replacement Project (“Project”).

Recommendation: For the reasons set out below, DFN has been made aware that our member community of Liidlii Kue First Nation (LKFN) is recommending that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

DFN ID 3: The Project will likely have a significant adverse impact on the environment

Comment: This Project is not merely a replacement, but a new project using new methods, and it poses significant risks to our environment, water, and Aboriginal and Treaty rights that should be the subject of a thorough environmental assessment.

Recommendation: The Dehcho (Mackenzie River) and its waters are, and have always been, sacred to LKFN. This River is a transportation corridor for LKFN members, and is also a source of food and water.

DFN ID 4: The Project is a cause of public concern

Comment: LKFN members reside in Fort Simpson, directly adjacent to the Project. LKFN members will be directly affected by the Project, and have significant concerns about the likely potential social, cultural, environmental, economic, and spiritual impacts if the Applications are approved.

Recommendation: LKFN members hunt, trap, fish, gather and otherwise exercise their constitutionally protected s. 35 Aboriginal and Treaty rights in the area of the proposed Project. Our members have expressed significant concerns and fears about the impacts of the construction and operation of the Project, including the significant risks of a failure or rupture of the pipeline, and expect that these concerns will be addressed in an Environmental Assessment.

DFN ID 5: The Proponent Has Not Provided Adequate Information on which to assess the Applications

Comment: On April 26, 2017 the National Energy Board released a decision agreeing with LKFN that the information provided by Enbridge about the proposed horizontal directional drilling process and other technical aspects of constructing this new pipeline segment are incomplete, and insufficient for LKFN and others to fully understand the project and the risks it poses. The NEB has halted its review process until Enbridge supplies the additional information. As of today’s date, Enbridge has

still not provided the information necessary to fully understand the Project, assess the risks, or provide comments and recommendations on the Applications.

Recommendation: For the reasons set out above, LKFN recommends that the Land and Water Board refer the Applications and the Project to an Environmental Assessment by the Mackenzie Valley Environmental Impact Review Board. Once the assessment is concluded, LKFN will be in a better position to provide comments on the terms and conditions for the Applications.

DFN ID 6: General

Comment: DFN is also aware that our member community Smbaa K'e Dene Band (SKDB) has also submitted their own review comments identifying specific questions and concerns pertaining to the information submitted to-date by Enbridge Pipelines Inc. for the new Land Use Permit and Water License applications. Dehcho First Nations would like to take this opportunity to express our support for the positions and concerns being raised by our member communities.

Recommendation: In order to adequately address the concerns being raised by our member communities, DFN also recommends that the Land and Water Board refer the Applications and the Project to an Environmental Assessment by the Mackenzie Valley Environmental Impact Review Board. Once the assessment is concluded, DFN will also be in a better position to provide comments on the terms and conditions for the Applications. For further information please contact Dahti Tsetso, Resource Management Coordinator at Dahti_Tsetso@dehcho.org / (867) 695-2355.

LKFN ID 4: Preliminary Screening - Adverse Environmental Impacts

Comment: This Project is not merely a replacement, but a new project using new methods, and it poses significant risks to our environment, water, and Aboriginal and Treaty rights that should be the subject of a thorough environmental assessment.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 5: Preliminary Screening - Adverse Environmental Impacts

Comment: The Dehcho (Mackenzie River) and its waters are, and have always been, sacred to LKFN. This River is a transportation corridor for LKFN members, and is also a source of food and water.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 6: Preliminary Screening - Public Concern

Comment: LKFN members reside in Fort Simpson, directly adjacent to the Project. LKFN members will be directly affected by the Project, and have significant concerns about the likely potential social, cultural, environmental, economic, and spiritual impacts if the Applications are approved.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 7: Preliminary Screening - Public Concern

Comment: LKFN members hunt, trap, fish, gather and otherwise exercise their constitutionally protected s. 35 Aboriginal and Treaty rights in the area of the proposed Project. Our members have expressed significant concerns and fears about the impacts of the construction and operation of the Project, including the significant risks of a failure or rupture of the pipeline, and expect that these concerns will be addressed in an Environmental Assessment.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 8: Missing Information

Comment: NEB has determined that (with respect to Enbridge's Geotechnical Report on Proposed Directionally Drilling Crossing, Mackenzie River Crossing, KP 529 Enbridge Line 21 Final Report) the following information is needed - a preliminary feasibility report detailing the assessment that was completed to determine that horizontal directional drilling could be successfully completed.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 9: Missing Information

Comment: NEB has determined that (with respect to Enbridge's Geotechnical Report on Proposed Directionally Drilling Crossing, Mackenzie River Crossing, KP 529 Enbridge Line 21 Final Report) the following information is needed - a description of the contingency plan to be used if the horizontal directional drill is not successful.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 10: Missing Information

Comment: NEB has determined that (with respect to Enbridge's Geotechnical Report on Proposed Directionally Drilling Crossing, Mackenzie River Crossing, KP 529 Enbridge Line 21 Final Report) the following information is needed - confirmation that CSA-Z662-15 Clause 4.22 Requirements for pipelines installed by horizontal directional drilling will be adhered to.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 11: Missing Information

Comment: NEB has determined that (with respect to Enbridge's Geotechnical Report on Proposed Directionally Drilling Crossing, Mackenzie River Crossing, KP 529 Enbridge Line 21 Final Report) the following information is needed - confirmation that the requirements of CSA-Z662-15 Clause 6.2.11.1 will be adhered to.

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

LKFN ID 12: Missing Information

Comment: NEB had determined to further information is required on slope stability of the south side of the Dehcho (Mackenzie River), specifically information is required on how the slope will be monitored or stabilized to reduce or remove the potential of slope failure impacting the decommissioned pipeline [sic].

Recommendation: LKFN recommends that the Land and Water Board refer the Applications to the Mackenzie Valley Environmental Impact Review Board for an Environmental Assessment pursuant to paragraph 126(2)(a) of the Mackenzie Valley Resource Management Act.

Board staff recommendation:

- Request further information from DFN and LKFN on why applications should be referred for an Environmental Assessment.

Further Studies Required

Board staff are presenting these concerns to the Board to support the need for additional time to gather information respecting the lands proposed to be used in the land use operation.

Section 22(2) and paragraph 22(2)(b) of the MVLUR reads as follows:

- (2) Subject to sections 23.1 and 24, if the Board does not return an application under paragraph (1)(a), it shall, within 42 days after receipt of the application,
 - (b) conduct a hearing under section 24 of the Act or require that further studies or investigations be made respecting the lands proposed to be used in the land use operation and notify the applicant in writing of the reasons for the hearing, studies or investigations.

5. Conclusion

As the Permit Application is directly associated with the Licence Application and submitted in conjunction with it, Board staff are of the opinion the Applications should be reviewed and processed together. In order to accommodate the time required for review and comment on the Applications and drafts of the Permit and Licence, and bringing the Applications to the Board for decision, the Board may wish to invoke paragraph 22(2)(b) of the MVLUR, to allow further study to be conducted for the Permit Application.

6. Recommendation

Board staff recommend that the Board invoke paragraph 22(2)(b) of the MVLUR to allow for additional time to gather information respecting the lands proposed to be used in the land use operation along with the associated Type B Water Licence MV2017L1-0002 regulatory process.

7. Attachments

- Applications – [Land Use Permit](#) and [Water Licence](#)
 - [Supplemental Information](#) – Revised Appendix II and VII
 - [Supporting Information](#) – Biophysical Assessment Report
 - [Security Estimate](#)
- [Letter from NEB to the Board dated May 28, 2017 – For Board’s Information](#)
- [Enbridge Hearing Order Issued by the NEB – For Board’s Information](#)

Respectfully submitted,



Angela Love
Regulatory Specialist