



Administrative Monetary Penalty / Sanction administrative pécuniaire
NOTICE OF VIOLATION / AVIS D'INFRACTION

REFERENCE NUMBER / N° DE REFERENCE: AMP-009-2015

Information for Pipeline Company / Third Party / Individual:

Information pour la société pipelinère / une tierce partie / un particulier :

Name / Nom :	Westcoast Energy Inc. (Spectra Energy Transmission)	TOTAL PENALTY AMOUNT / MONTANT TOTAL DES PÉNALITÉS:
Contact / Contactez:	Mark Fiedorek	
Title / Titre:	President	\$28,000
Address / Adresse:	Fifth Avenue Place, East Tower 425 - 1st Street SW Suite 2600 T2P 3L8	Date of Notice / Date de l'Avis:
		5 May 2015
		Regulatory Instrument # / N° de l'instrument réglementaire:
		XG-W102-005-2011
City / Ville:	Calgary,	
Province / State / État	Alberta	
Telephone / Téléphone:	██████████	
Fax / Télécopieur:	██████████	
E-mail / Courriel:	██	

On / Le 31 January 2014

Westcoast Energy Inc. (Spectra Energy Transmission)

was observed to be in violation of a NEB regulatory requirement. This violation is subject to an administrative monetary penalty, as outlined below.

a commis une infraction aux exigences réglementaires de l'ONÉ, sujet à la sanction administrative pécuniaire ci-dessous.

1. VIOLATION DETAILS / RENSEIGNEMENTS SUR L'INFRACTION

Date of Violation / Date d'infraction :		Has compliance been achieved? / La situation est-elle rétablie? <input type="radio"/> Yes / Oui <input checked="" type="radio"/> No / Non If no, a subsequent NoV may be issued. Si non, un autre avis d'infraction pourrait être envoyé.
(from / du): 31 January 2014	(to / au): 31 January 2014	
Total Number of Days / Nombre total de jours: 1		

Location of Violation / Lieu de l'infraction:

e.g. Facility/plant/head office or nearest geographical point or lat/long / ie: usine/siege central/lieu géographique Transmission North Expansion Project, British Columbia

Short Form Description of Violation / Description abrégée de l'infraction (Refer to Schedule 1 of the AMP Regulations) / (Voir l'annexe 1 du Règlement)	Provision and Short-form Description / Disposition et Sommaire
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Choose an item / Choisir

Choose an item / Choisir

<input type="checkbox"/>	<i>Contravention of an Order or Decision made under the Act (ss. 2(2) of the AMP Regulations) / Dérogation à une ordonnance ou à une décision rendue sous le régime de la Loi (paragraphe 2(2) du Règlement sur les sanctions administratives pécuniaires)</i>
<input checked="" type="checkbox"/>	<i>Failure to comply with a term or condition of any certificate, licence, permit, leave or exemption granted under the Act (ss. 2(3) of the AMP Regulations) / Manquement à une condition d'un certificat, d'une licence, d'un permis, d'une autorisation ou d'une exemption accordé sous le régime de la Loi (paragraphe 2(3) du Règlement sur les sanctions administratives pécuniaires)</i> Condition 7 of XG-W102-005-2011

2. RELEVANT FACTS / FAITS SAILLANTS

Briefly describe reasonable grounds to believe a violation has occurred / Décrire brièvement les motifs raisonnables de croire qu'une infraction a été commise

1. On 21 April 2011, the National Energy Board issued a Letter and Order XG-W102-005-2011 (A1Y7T7) approving Westcoast Energy Inc., carrying on business as Spectra Energy Transmission's (Westcoast) Transmission North Expansion Project (Project). Condition 7 of Order XG-W102-005-2011 (Order) states: "On or before the 31 January of each of the first and third complete growing seasons following commencement of operation of the Project, Westcoast must file with the Board a post-construction environmental monitoring report that:

- describes the methodology used for monitoring, the criteria established for evaluating success and the results found;
- assesses the effectiveness of mitigation measures applied during construction against the criteria for success;
- identifies any deviations from plans, and alternate mitigation applied, as approved by the Board;
- identifies locations on a map or diagram where environmental issues arose during construction and where corrective actions were taken;
- identifies the current status of the issues identified (resolved or unresolved) and corrective actions undertaken;
- includes details of consultation undertaken with affected landowners and appropriate provincial and/or federal departments; and
- provides proposed measures and the schedule that Westcoast shall implement to address any unresolved issues or concerns.

The report must include information specific to the effectiveness of mitigation applied to minimize effects on western toad and its breeding habitat."

2. On 31 January 2014, Westcoast submitted its first post-construction environmental monitoring report (PCMR) as required by Condition 7 of the Order. In this submission, Westcoast indicated most environmental concerns had already been resolved. Westcoast further stated any outstanding issues would be monitored and necessary corrective actions taken until all issues were resolved. Westcoast also confirmed the third year post-construction environmental monitoring report would be submitted by 31 January 2016 as required.

3. In August 2014, the NEB conducted an evaluation of Westcoast's PCMR. During its review, the NEB found that Westcoast had not complied with the final term of Condition 7 of the Order requiring information specific to the effectiveness of mitigation applied to minimize effects on western toad and its breeding habitat, as Westcoast had made no mention of western toad in its PCMR submission. Western toad had been identified as a Species at Risk in the Project's Environmental Screening Report conducted under the Canadian Environmental Assessment Act.

4. On 28 January 2015, the NEB issued an informal information request to Westcoast. In it, the NEB requested a response outlining how Westcoast would ensure information specific to the effectiveness of mitigation applied to minimize effects on western toad and its breeding habitat would be addressed in the year three PCMR.

5. On 26 February 2015, Westcoast responded to the information request. Westcoast indicated it would conduct a monitoring survey of amphibians, including western toad, on the reconstructed dugouts and all crossed wetlands associated with the Project during the 2015 season. Field monitoring would utilize best practices for management of amphibians and would support reconstructed and natural wetlands associated with western toad and its breeding habitat.

6. On 17 March 2015, the Board requested confirmation that results of the amphibian monitoring survey would be included in Westcoast's third year PCMR submission to be filed with the Board.

7. On 18 March 2015, Westcoast confirmed that it would provide the results of the amphibian monitoring survey as required.

3. PENALTY CALCULATION / CALCUL DES SANCTIONS

(a) BASELINE PENALTY (Gravity Value = 0) / PÉNALITÉ DE BASE (côte de gravité = 0)

Category / Catégorie	(Type A)	Individual / Personne physique	Any Other Person / Autre Personne
		<input type="checkbox"/> \$1,365	<input type="checkbox"/> \$5,025
	(Type B)	<input type="checkbox"/> \$10,000	<input checked="" type="checkbox"/> \$40,000

[Refer to [AMP Regulations](#), Subsection 4(1) / Voir le [Règlement](#), paragraphe 4(1)]

(b) APPLICABLE GRAVITY VALUE / COTE DE GRAVITE GLOBALE APPLICABLES

[Refer to [AMP Regulations](#), Subsection 4(2) / Voir le [Règlement](#), paragraphe 4(2)]

	Mitigating / Atténuer			Aggravating / Aggravantes		
	-2	-1	0	+1	+2	+3
<input checked="" type="checkbox"/> Other violations in previous seven (7) years / Autres infractions au cours des sept (7) années précédentes	--	--	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
On 22 January 2015, Westcoast received a Notice of Violation totalling \$88,000 for failure to ensure that the company's processing plant is designed, constructed, operated or abandoned as prescribed, as outlined in the NEB Processing Plant Regulations (PPR) 4(1). On 18 February 2015, Westcoast paid the penalty in full.						
<input type="checkbox"/> Any competitive or economic benefit from violation / Avantages concurrentiels ou économiques découlant de l'infraction	--	--	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
n/a						
<input type="checkbox"/> Reasonable efforts to mitigate / reverse violation's effect / Efforts raisonnables déployés pour atténuer ou annuler les effets de l'infraction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
n/a						

<input type="checkbox"/>	Negligence on part of person who committed violation / Négligence de la part de la personne ayant commis l'infraction	--	--	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
n/a							
<input checked="" type="checkbox"/>	Reasonable assistance to Board with respect to violation / Collaboration raisonnable avec l'Office en ce qui a trait à l'infraction	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
Westcoast responded to Board inquiries related to monitoring of western toad habitat when required.							
<input checked="" type="checkbox"/>	Promptly reported violation to Board / Infraction signalée sans délai à l'Office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
The Board discovered the final term of Condition 7 had not been addressed during its PCMR evaluation. Westcoast did not report the violation to the Board and only identified steps to address the non-compliance after NEB raised concerns with the lack of appropriate reporting as required.							
<input checked="" type="checkbox"/>	Steps taken to prevent reoccurrence of violation / Mesures prises pour prévenir les récidives	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
Westcoast has committed to conducting field monitoring of western toad habitat and breeding areas during the 2015 growing season. Westcoast has stated it will report on its findings in its third year PCMR submission to be filed with the Board no later than 31 March 2016.							
<input type="checkbox"/>	Violation was primarily reporting / record-keeping failure / Infraction reliée principalement à la production de rapports ou à la tenue des dossiers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--	--	--
n/a							
<input type="checkbox"/>	Any aggravating factors in relation to risk of harm to people or environment / Facteurs aggravants pouvant causer du tort au public ou à l'environnement	--	--	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n/a							
(c) TOTAL GRAVITY VALUE / COTE DE GRAVITÉ GLOBALE							-1
(d) DAILY PENALTY / SANCTIONS QUOTIDIENNES (The baseline penalty, adjusted for the final gravity level) (Pénalité de base d'après la côte de gravité)							\$ 36,000
(e) NUMBER OF DAYS OF VIOLATION / DURÉE DE L'INFRACTION (If more than one day, then the justification must be provided.) (Si plus d'une journée, prière de justifier.)							1
Notes to explain decision to apply multiple daily penalties, or "Not Applicable" / Notes pour expliquer la décision d'appliquer des pénalités multiples quotidiennes, ou «sans objet»							
4. TOTAL PENALTY AMOUNT / MONTANT TOTAL DE LA PÉNALITÉ							\$ 36,000
Note: The total penalty amount shown is based on the period described in Step 1 above. If compliance has not been achieved, a subsequent Notice of Violation may be issued. Le montant total de la pénalité est calculé d'après la période décrite à l'étape 1 ci-dessus. Si la situation n'a pas été rétablie, un autre avis d'infraction pourrait être envoyé.							
5. DUE DATE (30 days from receipt of Notice of Violation) DATE LIMITE (30 jours à compter de la réception de l'Avis d'infraction)							3 June 2015

Notes

You have the right to make a request for a review of the amount of the penalty or the facts of the violation, or both, within 30 days after the Notice of Violation was received.

If you do not pay the penalty nor request a review within the prescribed period, you are considered to have committed the violation and you are liable for the penalty set out in the Notice of Violation. The penalty is due on the date indicated above.

The unpaid penalty amount is a debt due to the Crown and may be recovered by collection procedures stipulated in the [Financial Administration Act](#).

The information regarding the violation may be posted on the NEB website:

- a) 30 days from the date this Notice of Violation was received
- or;
- b) upon issuing a decision following a Request for Review.

To Make Payment:

You may remit your fee payment by Electronic Funds Transfer (EFT) or by cheque payable to the order of Receiver General for Canada.

EFT payments can be arranged by contacting the Director of Financial Services, Monday to Friday, from 09:00 to 16:00 Mountain Time:

Telephone: 403-919-4743 / 800-899-1265
Fax: 403-292-5503 / 877-288-8803

Cheques should be made out to the "Receiver General for Canada" and mailed to:

National Energy Board
Attention: Finance
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

Your completed *Payment* form should be enclosed with your payment.

Notes

Vous disposez de 30 jours après la signification de l'Avis d'infraction pour demander une révision du montant de la pénalité, ou les faits rapportés, ou les deux.

Si les sanctions ne sont pas acquittées et qu'aucune révision n'est demandée, vous êtes considérés comme coupable de l'infraction et vous devez payer les sanctions précisées dans l'Avis d'infraction. Les sanctions sont payables à la date indiquée ci-dessus.

Un défaut de paiement constitue une créance envers l'Etat et peut être recouvré en utilisant tous les recours prévus dans la [Loi sur la gestion des finances publiques](#).

L'information concernant l'infraction pourrait également être affichée sur le site Web de l'ONE:

- a) 30 jours après la date de réception de l'Avis;
- b) dès qu'une décision a été rendue à la suite d'une Demande de Révision.

Paiement:

Vous pouvez payer le montant dû par transfert électronique de fonds (TEF) ou par chèque établi à l'ordre du Receveur général du Canada.

Pour se prévaloir du service de transfert électronique, communiquer par téléphone avec le Directeur, Service des finances, du lundi au vendredi, de 9 h à 16 h, heure des Rocheuses :

Telephone: 403-919-4743/ 800-899-1265
Telec. : 403-292-5503/877-288-8803

Les chèques doivent être établis à l'ordre du Receveur général du Canada et postés à l'adresse suivante:

Office national de l'énergie
Service des finances
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Le formulaire de *paiement* dûment rempli doit accompagner le paiement.

To Request a Review

Pursuant to the NEB Act, Section 144, you may file a request for a review of this Notice of Violation by the Board.

The date of filing is the date on which the document is received, as indicated by the date on an e-mail submission or the stamped on the document by a NEB employee.

If you elect to make a request for a review, complete and submit the attached *Request for Review* form to:

Administrative Monetary Penalty - Reviews
National Energy Board
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

For more information on reviews, please see the Administrative Monetary Penalties Process Guide available on the NEB's [website](#).

If you have any questions regarding this matter, please contact the undersigned.

Sincerely,

Demander de révision

En vertu de l'article 144 de la Loi sur l'ONE, vous pouvez présenter à l'Office une *Demande de révision* de cet Avis l'infraction.

La date du dépôt correspond à la date de réception du document, qui apparaît sur l'envoi électronique ou le timbre apposé sur le document par un employé de l'ONE.

Si vous voulez demander une révision, veuillez remplir et soumettre le formulaire de Demande de révision à l'adresse suivante :

Sanction administrative pécuniaire - Révision
Office national de l'énergie
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Pour de plus amples informations sur le processus de révision, prière de consulter le Guide sur le processus relatif aux sanctions administratives pécuniaires sur le [site Web](#).

Pour toute question à ce sujet, veuillez communiquer avec la personne soussignée.

Sincères salutations,

Robert Steedman

Designated Officer
Administrative Monetary Penalties

Fonctionnaire désigné
Sanctions administratives pécuniaires

403-299-3178