

MEMORANDUM OF UNDERSTANDING

BETWEEN

NATIONAL ENERGY BOARD (NEB)

AND

ENERGY RESOURCES CONSERVATION BOARD (ERCB)

1 PURPOSE

The National Energy Board (NEB) of Canada and the Energy Resources Conservation Board (ERCB) of Alberta (together “the parties”) enter into this Memorandum of Understanding (MOU) to

- 1) establish a protocol between the parties whereby each agency may provide assistance to the other in respect of emergency response;
- 2) enhance cooperation and coordination between the parties for the purpose of improving pipeline safety within Canada and the province of Alberta; and
- 3) establish agreement for coordinating training and technical liaison in areas of common interest.

2 BACKGROUND

The ERCB is charged under the *Oil and Gas Conservation Act*, the *Pipeline Act*, and the *Oil Sands Conservation Act* with the responsibility to ensure the control and containment of any accidental release of oil, gas, or water from an energy industry-related facility within its jurisdiction. This may include sour gas releases, blowouts from drilling or servicing operations, oil or saltwater spills, sweet gas releases, high vapour pressure product releases and fires related to oil and gas facilities and pipelines. This responsibility is accomplished, in part, by the mandatory notification of any accident, incident, or spill by the energy industry to the ERCB, which has the support of expert technical staff and an extensive field network situated throughout Alberta. This allows for a speedy response with a unified command approach to incidents.

The NEB is charged under the *National Energy Board Act* with the responsibility to regulate the safe design, construction, operation, and abandonment of interprovincial and international oil and gas pipelines;¹ it may investigate accidents involving those pipelines; hold a public inquiry into and make findings as to the cause of the accident or factors contributing to it; make recommendations relating to the prevention of similar accidents; and issue orders related to the design, operation, and abandonment of pipelines. The NEB is also responsible for ensuring that appropriate emergency response plans are in place for pipelines under its jurisdiction. An NEB-regulated company is required, under the provisions of the *Onshore Pipeline Regulations*, 1999,

¹ “‘Pipeline’ means a line that is used or to be used for the transmission of oil, gas or any other commodity and that connects with any other province or provinces or extends beyond the limits of a province or the offshore area as defined in section 123, and includes all branches, extensions, tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio and real and personal property, or immovable and movable, and works connected to them, but does not include a sewer or water pipeline that is used or proposed to be used solely for municipal purposes” (*NEB Act*, section 2).

to notify the NEB of any incident relating to the construction, operation, or abandonment of its pipeline. The NEB's response is dependent on the nature of the incident.

Because of the recent transfer of regulatory oversight of the NOVA Gas Transmission Ltd. system from provincial to federal jurisdiction and the reorganization of the provincial regulator, this MOU supersedes the 1995 MOU between the Alberta Energy and Utilities Board (predecessor of the ERCB) and the National Energy Board.

3 TERMS OF AGREEMENT

3.1 Response to Pipeline Incidents or Emergencies

- 1) The ERCB agrees to provide emergency response assistance to the NEB when incidents occur on NEB-regulated pipelines within Alberta. The scope of the ERCB's emergency response assistance to the NEB is described in Appendix B: ERCB Field Centre Protocol for Response to Emergencies on NEB-Regulated Pipelines.
- 2) The ERCB's assistance will normally be provided by the ERCB Field Centre closest to the incident site. ERCB field staff will monitor and assess the pipeline company's emergency response, including the company's ability to
 - manage the emergency,
 - ensure the safety of the public, and
 - minimize damage to the environment.

The ERCB field staff will provide timely updates to the NEB and, where necessary, recommend to the NEB any action that may be required of the company. The initial response by the ERCB will continue until such time as NEB personnel arrive at the site or ERCB field staff have been relieved by NEB personnel.

- 3) When providing assistance to the NEB response to an emergency on an NEB-regulated pipeline, the ERCB may obtain information required to determine
 - if ERCB-licensed pipelines or facilities were impacted or if there is potential for impact;
 - if there is specialized assistance that the ERCB could provide in mitigating impacts on the public or environment; and
 - if there is specialized assistance that the ERCB could provide to ensure that the provincial response is appropriate in relation to the consequences of the incident.

Specialized assistance will be provided to the NEB response after consultation with the NEB Emergency Response Officer (ERO) or the NEB Emergency Operations Centre (EOC).

- 4) The NEB will remain responsible for the investigation of all incidents and the evaluation of the effectiveness of the cleanup and rehabilitation operations for the pipelines it regulates.
- 5) If the ERCB provides emergency response assistance to the NEB, the NEB agrees to provide the ERCB with a final incident report, subject to the conditions prescribed in Clause 4 of this MOU.

3.2 Cooperation and Coordination on Pipeline Safety

- 1) When either party commences an enforcement action with a company on a directly connected portion of its federally and provincially regulated pipeline network, the party commencing the action will notify the NEB Business Unit Leader, Operations, or the ERCB Field Surveillance Operations Leader, as appropriate.

3.3 Training and Technical Cooperation

- 1) The parties will examine and pursue opportunities for training and technical cooperation and collaboration to minimize duplication of effort, more effectively and efficiently use existing staff and technical knowledge, reduce regulatory burden, achieve consistency in methodologies and approach, and set the tone for cooperative efforts.
- 2) The parties will pursue technical exchange of staff when considered suitable and appropriate.

4 INFORMATION EXCHANGE

- 1) To the extent any investigation reports, findings, and company information are shared in furtherance of the purposes of this MOU, each party will protect any non-public records or portions thereof provided by the other party from unauthorized disclosure in accordance with applicable law.
- 2) Both parties agree that each will specify when information it provides is being submitted “in confidence” so that the receiving party can refuse disclosure of that material in accordance with the federal *Access to Information Act*, the Alberta *Freedom of Information and Protection of Privacy Act*, and other applicable legislation.
- 3) In situations where the Transportation Safety Board (TSB) is actively investigating or intends to investigate an incident on NEB-regulated-pipelines, the NEB and the ERCB are precluded from investigating and disclosing information regarding the incident’s cause and contributing factors until the TSB has released its findings.

5 COSTS

- 1) Cost recovery for activities associated with this agreement is not part of this MOU. However, if an incident occurs where this is an issue, discussions will follow accordingly to address the matter. Generally, each organization will be responsible for its own costs.
- 2) Each party will cover all relevant costs for its respective staff involved in a technical exchange.

6 LEGAL LIABILITY

- 1) This MOU indicates the intentions of the parties but does not create a contractual obligation between them.
- 2) Nothing in this MOU or any annex is intended to create any right or benefit, substantive or procedural, enforceable at law by any person or organization against either party, its agencies

or officers, agencies or officers carrying out programs authorized under federal or provincial law, or any other person.

7 OTHER PROVISIONS

- 1) Nothing in this MOU or any appendix is intended to impose any funding obligations on either of the parties. Nothing in this MOU or any annex is intended to diminish or otherwise affect the authority of either party to carry out its statutory, regulatory, or other official functions or to commit either party to providing a particular service it would not otherwise provide in the scope of its individual mission and functions.
- 2) This MOU and any annexes hereto may be amended or modified at any time by written agreement of the NEB Chief Operating Officer and the ERCB Chief Operating Officer.
- 3) Should disagreement arise on the interpretation of any provision of this MOU or any amendments and/or modifications thereto that cannot be resolved at the operating level, the area(s) of disagreement will be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the parties will forward the written presentation of the disagreement to their respective Chief Operating Officers for appropriate resolution.

8 PRINCIPAL CONTACTS

The parties designate the principal contacts identified in Appendix A. Each party's contact may be changed at its discretion upon notice to the other party.

9 EFFECTIVE PERIOD/TERMINATION

This MOU is effective as of the date of the last signature of either party and will remain in effect until terminated by either party. Either party may terminate this MOU and any annexes hereto upon written notice to the other party.

10 PERIODIC REVIEW AND CONSULTATION

The parties agree that on a regular basis appropriate staff from both organizations will meet to review the content and continued relevance of this MOU, as deemed necessary. Proposals for changes to this MOU can be made at any time and appropriate amendments made as may be agreed upon in writing.

APPROVED BY



Mr. Pradeep Kharé
Chief Operating Officer
National Energy Board

March 31 / 2010
Date



Mr. Trevor Dark
Chief Operating Officer
Energy Resources Conservation Board

March 31, 2010
Date

APPENDIX A PRINCIPAL CONTACTS

National Energy Board

Ms. Sandy Lapointe
Business Leader, Operations Business Unit
444 - 7 Avenue SW
Calgary AB T2P 0X8
E-mail: sandy.lapointe@neb-one.gc.ca
Telephone: 403-299-3673
Fax: 403-292-5876

Energy Resources Conservation Board

Mr. Gary Neilson
Manager, Emergency Management Group
640 - 5 Avenue SW
Calgary AB T2P 3G4
E-mail: gary.neilson@ercb.ca
Telephone: 403-297-6306
Fax: 403-297-3520

APPENDIX B ERCB FIELD CENTRE PROTOCOL FOR RESPONSE TO EMERGENCIES ON NEB REGULATED PIPELINES

1. ERCB receives notification of emergencies on NEB-regulated pipelines

ERCB	NEB
<p>1.1 The majority of pipeline incidents pertaining to a NEB-regulated pipeline(s) will be reported directly to the NEB. If a pipeline incident pertaining to an NEB-regulated pipeline is reported directly to the ERCB (via Field Centre 24-hour contact numbers), the ERCB Field Centre will forward notification to the NEB 24/7 Incident Cell Phone at 403-807-9473.</p> <p>1.2 The Alberta Transportation Coordination and Information Centre (CIC) responds to the ERCB 24-hour contact numbers after normal business hours. The CIC will forward incidents pertaining to NEB-regulated pipelines to the appropriate ERCB Field Centre.</p> <p>The ERCB Field Centre will forward notification to the NEB for any call regarding NEB-regulated facilities.</p>	<p>The NEB on-call responders will assess the call and forward it to the proper internal resources.</p>

2. NEB requests ERCB assistance

ERCB	NEB
<p>2.1</p> <p>2.2 The ERCB Field Centre requested to respond to the emergency on an NEB-regulated pipeline will dispatch inspection staff to the incident site to observe the response until NEB personnel arrive on site.</p> <p>An ERCB Field Centre may decline an NEB request to provide assistance with their response if it determines that</p> <ul style="list-style-type: none"> • the request would compromise the safety of ERCB personnel, or • it does not have the resources available, or • public safety would not be compromised by waiting for the NEB’s emergency response personnel to be on site. 	<p>When the NEB receives notification of a pipeline incident, NEB staff will determine if the incident is an emergency and if ERCB assistance is required in the response.</p> <p>The NEB will call the appropriate ERCB Field Centre Team Leader or designated Field Centre Staff to request ERCB assistance with the emergency response.</p> <p>When the ERCB Field Centre receives a request from the NEB for emergency response assistance on an NEB-regulated pipeline, the NEB will provide the following information:</p> <ul style="list-style-type: none"> • the incident details, • the emergency level (level 2 or 3) established by the NEB, • the NEB contact information, • a damage assessment and extent of area affected, and • the company’s response, including the equipment and personnel deployed.

The ERCB Field Centre will not enter the incident details into the ERCB's Field Inspection System.

The role of the ERCB inspector(s) dispatched to the incident site will be limited to

- establishing the frequency of contact to be maintained with the on-site company representative,
- determining the type of information to be received from the on-site company representative in consultation with the NEB Emergency Operation Centre (EOC) Manager,
- observing the company's response in consultation with the assigned on-site company representative,
- gathering details of injuries or ongoing threat to the public or to company personnel and immediately forwarding the information to the NEB EOC,
- confirming access control to the area with the on-site company representative,
- confirming with the on-site company representative that the source of the release is shut in or is in the process of being controlled,
- observing the means and extent of communication to the public and referring any media request to the NEB EOC,
- observing the company procedures and timing for control, cleanup, and site remediation,
- keeping a list of people met on site and their contact information (e.g., business card) and delivering the information to the NEB Emergency Response Officer (ERO) arriving at the incident site,
- providing incident updates to the NEB EOC, and
- immediately communicating significant developments to the NEB EOC.

2.3

The NEB EOC will monitor the incident response and provide support to the ERCB on-site inspector(s) until the ERCB's assistance with the emergency response is no longer required. The NEB EOC will make contact with the on-site ERCB personnel and the assigned on-site company representative and will also gather the following information:

- names of on-site company representative(s),
- damage assessment and extent of area affected,

- equipment and personnel deployed by the company to manage the incident,
- whether the source of the release has been shut in or is in the process of being controlled,
- how access to the area is being controlled,
- how on-site personnel are being accounted for,
- means and extent of communication to the public,
- company procedures and timing for control, cleanup, and site remediation,
- details of injuries or ongoing threat to the public or to company personnel,
- any change to the conditions of the incident,
- status of company response, repairs, and cleanup activities,
- any news media requests, and
- safety, environment, and landowner issues.

The NEB EOC will determine for ERCB personnel the

- frequency of contact to be maintained with the company, including the on-site company representative, and
- information to be received with each contact.

The NEB will provide continual incident updates to appropriate Government of Alberta agencies through the Alberta Emergency Management Agency Response Readiness Centre.

3. NEB Emergency Response Officer (ERO) arrives on incident site and relieves ERCB inspector(s)

3.1

The NEB ERO arriving on the incident site will meet the ERCB on-site inspector(s) to conduct a situational debriefing.

3.2 The on-site ERCB inspector(s) will provide the NEB ERO with the following information:

- name(s) of on-site company representative,
- the established frequency of contact to be maintained with the on-site company representative,

- the type of information to be received with each on-site contact,
- an updated damage assessment and extent of area affected,
- description of the equipment and personnel deployed by the company to manage the incident,
- confirmation that the source of the release has been shut in or is in the process of being controlled,
- confirmation of access control to the area,
- the means and extent of direct communication with the public,
- the company procedures and timing for control and cleanup,
- an update on injuries or ongoing threat to the public or to on-site company personnel,
- an update on any change to the conditions of the incident,
- an update on the status of the company response, repairs, and cleanup activities,
- any news media requests that were forwarded to the NEB EOC,
- an update on safety, environment, and landowner issues,
- contact information for other on-site responders or on-site government agencies.

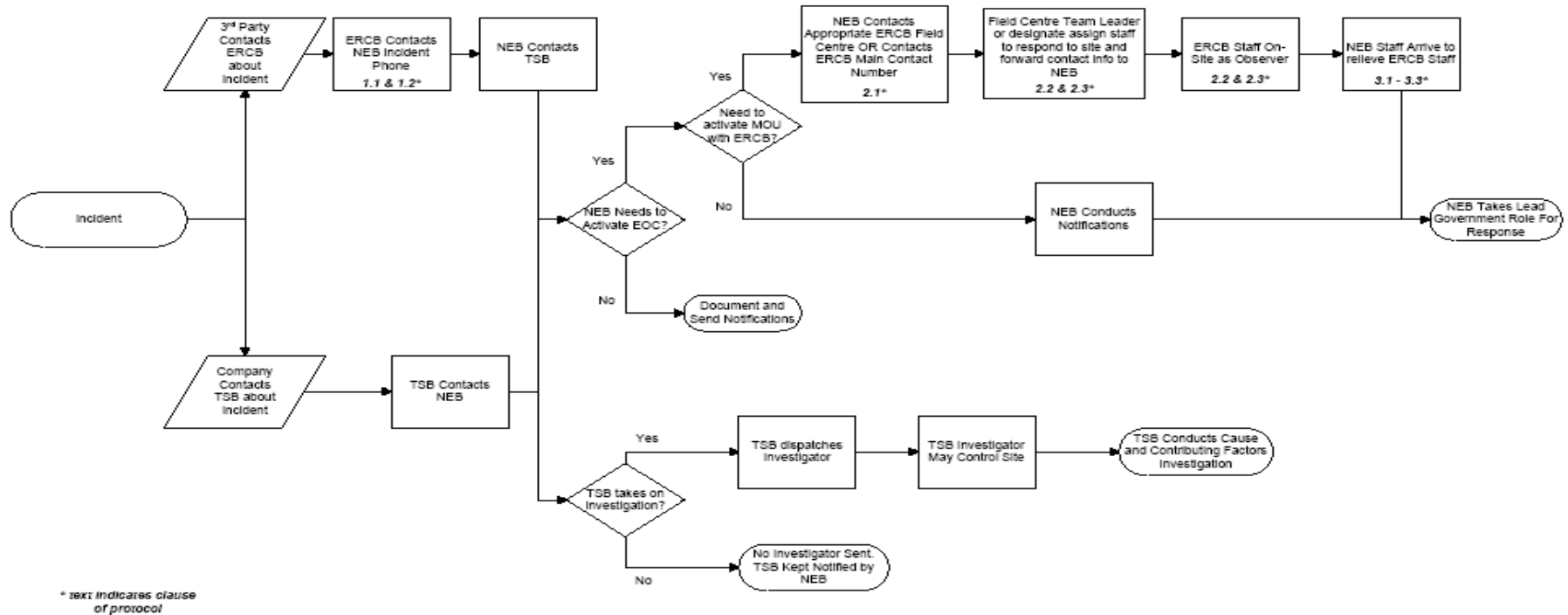
The ERCB inspector(s) will comply with all applicable provincial, including ERCB, safety requirements while on site assisting the NEB.

The ERCB inspector(s) will immediately report to the NEB EOC and the applicable ERCB Field Centre.

3.3

At the conclusion of the debriefing, the NEB ERO will inform the ERCB that the ERCB's assistance is no longer required and that the NEB will be assuming on-site responsibilities.

APPENDIX C NEB-ERCB Process Flowchart



Transportation Safety Board -TSB
 National Energy Board-NEB
 Energy Resources Conservation Board - ERCB

Appendix D: Key Contacts NEB-ERCB MOU

Area of Responsibility	Organization	Contact Person/ Office	Title	Phone number	E-mail
General Contact	ERCB	Calgary Head Office		(403) 297 2625	epassessment@ercb.ca
General Contact	NEB	Calgary Office		(403) 292-4800	info@neb-one.gc.ca
Emergency contacts (24 hours)	ERCB	Bonnyville		(780) 826-5352	bonnyville.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	Drayton Valley		(780) 542-5182	draytonvalley.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	Grande Prairie		(780) 538-5138	grandeprairie.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	High Level		(780) 926-5399	highlevel.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	Medicine Hat		(403) 527-3385	medicinehat.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	Midnapore (Calgary South)		(403) 297-8303	midnapore.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	Red Deer		(403) 340-5454	reddeer.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	St. Albert		(780) 460-3800	stalbert.fieldcentre@ercb.ca
Emergency contacts (24 hours)	ERCB	Wainwright		(780) 842-7570	wainwright.fieldcentre@ercb.ca
Emergency contacts (24 hours)	NEB			(403) 807-9473	
Emergency contact	TSB			(819) 997-7887	
Emergency contact	NEB	Robert LeMay	Emergency Response Officer	(403) 299-3187 / 471-3104 (cell)	
Emergency contact	NEB	Shane Richardson	Emergency Response Officer	(403) 299-3926 / 471-3118 (cell)	
Emergency contact	NEB	Wes Elliott	Emergency Response Officer	(403) 299-3735 / 473-4740 (cell)	
Emergency contact	NEB	Luke Furmidge	Emergency Response Officer	(403) 299-2761 / 605-1673 (cell)	
Emergency contact	NEB	Ken Colosimo	Emergency Response Officer	(403) 292-4926 / 471-3101 (cell)	
Emergency Gas Diversion	ERCB	Greg Schroter	Consequence Management Officer	(780) 460-3816	greg.schroter@ercb.ca
Emergency Gas Diversion	NEB	Robert LeMay	Emergency Management Specialist	(403) 299-3187	robert.lemay@neb-one.gc.ca