

Decision in Brief:

West Path Delivery 2023 Project

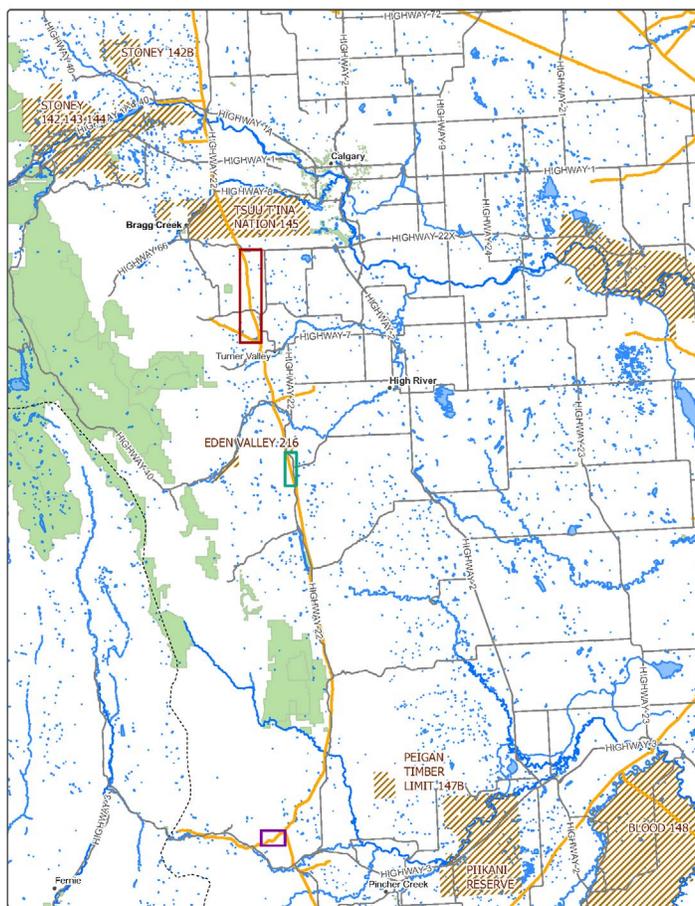
The Commission of the Canada Energy Regulator (CER) recommends approval of the West Path Delivery 2023 Project. This is the first project recommendation under the CER Act.

While the Commission finds the project can positively contribute to the economy, there may be impacts to the rights and traditions of Indigenous Peoples and others. With this in mind, the Commission has decided that 34 conditions are needed. The conditions cover, among other things, construction activities, project safety, environmental monitoring, and net-zero greenhouse gas emissions.

Project Background

The NOVA Gas Transmission Ltd.'s (NGTL) System consists of about 25,000 kilometres (km) of natural gas pipeline that connects natural gas production in western Canada to markets. Shippers drive expansions that generally happen in small segments. This expansion is needed to meet increasing natural gas export requirements. It will connect natural gas supplies from the Western Canadian Sedimentary to long-term delivery markets in the U.S.

The proposed 39 km pipeline is located in southwest Alberta. It would run south of Calgary between Turner Valley and Lundbreck, Alberta. The project is within the boundaries of Treaty 7.



Rights and Interests of Indigenous Peoples

The CER is committed to reflecting the Rights and interests of Indigenous Peoples in its work. We are working to improve relationships with Indigenous Peoples. Indigenous Peoples are knowledgeable stewards of the lands and resources within their traditional territories. Work is [underway](#) to build partnerships with [Indigenous Monitors](#) on the [NGTL System](#).

Overall, there were two pathways to hearing the interests and concerns of Indigenous Peoples. The primary pathway was through the Commission's hearing process. Indigenous Peoples were encouraged to bring their concerns directly to the Commission. The second was through the CER Crown Consultation process. This was the first application involving the CER as Agent of the Crown. The CER Crown Consultation activities are conducted separately from the hearing and aimed to further support two-way nation-to-nation dialogue.

The CER engaged with 24 distinct Indigenous Peoples. This consultation is summarized in the Crown Submission that was submitted on November 19, 2021. In response to concerns about the new CER Crown Consultation process, the CER will continue to refine, adjust, and adapt its Crown Consultation approach.

The Commission finds that the Crown Consultation activities were adequate. The CER is committed to upholding the Rights and interests of Indigenous Peoples in its work and decision-making. The CER Act requires that the Commission's recommendation report is submitted to the Minister of Natural Resources Canada. The CER, as Crown Consultation Coordinator, will examine the recommendation report with Indigenous communities and discuss any additional measures that may be needed to address or accommodate impacts to Indigenous Rights.

Outside of the Commission's finding that the project is in the public interest, Commissioners Côté and Grimoldby recommend including Indigenous Peoples in co-development and cooperative oversight of the entire NGTL System. Commissioners Côté and Grimoldby were of the view that such a recommendation would, among other things, positively contribute to Reconciliation. While all three Commissioners agreed on the importance and necessity of advancing Reconciliation, Commissioner Watton was of the view that the Commission does not have the power to make such a recommendation given the mandate and scope of the Panel. He also did not think that he had the evidence before him to support making the recommendation. Further, all three Commissioners also recommend additional measures to address cumulative effects on the Rights of Indigenous Peoples.

Canada's Climate Change Commitments

The Commission considered several factors to determine if this project would hinder or contribute to the Government of Canada's ability to meet its environmental obligations and commitments on climate change. This includes greenhouse gas (GHG) emissions from the construction and operation of the pipeline, how NGTL would address those emissions, and NGTL's plans to achieve net-zero emissions by 2050.

Most of the project's estimated GHG emissions come from construction activities such as land clearing. Considering all factors and the three GHG-specific conditions imposed, the Commission determined that this project would not materially hinder Canada's ability to meet its climate change commitments.

Protection of Rare Plants

There are many rare plants along the pipeline corridor near the Crownsnest Pass. Some rare plants, such as endangered whitebark pine and limber pine, may be disturbed during construction.

While the company has plans to replace the plants and trees affected, the Commission imposes a condition requiring NGTL to ensure that it takes additional steps to protect these rare plants. This includes completing a management plan for specified rare plants and a plan to offset any losses of rare plants that fail to re-establish five years after construction.

Gender-based Analysis Plus

The project may impact people in different ways. This depends on various identity factors, such as sex, gender, age, culture, Indigeneity and ability. Gender-based Analysis Plus (GBA Plus) can help to consider such differences.

For example, Indigenous peoples raised concerns around potential negative impacts related to the project's temporary workforce including impacts to women and children. However, given the scope and scale of the project and the relatively small size and temporary nature of the workforce, the Commission finds that the effects of the project on social and cultural well-being would likely be neutral. This would balance the positive effects of employment and project expenditures on local and Indigenous businesses.

Based on the project's circumstances, the Commission is satisfied that NGTL has provided sufficient information regarding GBA Plus.

Next Steps

The CER Act requires that the Commission's recommendation report is submitted to the Minister of Natural Resources Canada. The Minister will then take the recommendation report to the Governor in Council (GIC), who will determine whether or not to direct the Commission to issue a certificate. If the GIC approves, the Commission will issue a certificate to NGTL authorizing it to begin the construction and eventual operation of the project, subject to conditions.

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