



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

REFERENCE NUMBER / N° DE REFERENCE: AMP-005-2015

Information for Pipeline Company / Third Party / Individual:

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

Name / Nom :	Enbridge Pipelines Inc.	TOTAL PENALTY AMOUNT / MONTANT TOTAL DES PÉNALITÉS:
Contact / Contactez:	Guy Jarvis	
Title / Titre:	President	\$100,000
Address / Adresse:	425 - 1st Street SW T2P 3L8	Date of Notice / Date de l'Avis:
		23 February 2015
		Regulatory Instrument # / N° de l'instrument réglementaire:
		XO-E101-016-2013
City / Ville:	Calgary	
Province / State / État	Alberta	
Telephone / Téléphone:	██████████	
Fax / Télécopieur:	██████████	
E-mail / Courriel:	████████████████████	

On / Le 10 July 2014

Enbridge Pipelines Inc.

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 checked="" type="radio"/> Yes / Oui <input type="radio"/> No / Non If no, a subsequent NoV may be issued. Si non, un autre avis d'infraction pourrait être envoyé.
(from / du): 10 July 2014	(to / au): 10 July 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 Cromer Manitoba, Line 3 replacement project construction site.

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)</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)</i> Condition 3 of Order XO-E101-016-2013

2. RELEVANT FACTS

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 18 July 2013, the Board issued Order XO-E101-016-2013 (Order) to Enbridge Pipelines Inc. (Enbridge) under s. 58 of the National Energy Board Act (the Act) granting approval to construct and operate a new replacement pipeline between the Cromer Terminal and a tie-in point within NW-9-9-26 WPM (Project). Condition 3 of Order states: "Enbridge shall implement or cause to be implemented all of the policies, practices, programs, mitigation measures, recommendations, procedures and its commitments for the protection of the environment included in or referred to in its application and its related submissions." Condition 6 states: "Enbridge shall file with the Board, every two weeks until the construction is completed, construction progress reports. The reports shall include information on the activities carried out during the reporting period, any environmental, safety and security issues and non-compliances, and the measures undertaken for the resolution of each issue and non-compliance."

2 - In early March of 2014, NEB staff heard that Enbridge's project was behind schedule and likely to be delayed. This was confirmed on 12 March 2014 by Enbridge as they indicated they would no longer meet the original targeted construction completion date of 31 March 2014. An e-mail was sent by Board staff on 17 March 2014, requesting a project update regarding their plans on how they would leave the construction site during the spring break up and what changes to the Environmental Protection Plan would take place as a result of the change in construction schedule. On 19 March 2014, Enbridge responded by e-mail and provided contradictory status statements to what inspectors would later observe on-site in July regarding environmental-related mitigation measures.

3- Between March and July of 2014, Southern Manitoba experienced several heavy precipitation events and flooding in some areas. The land through which the pipeline RoW runs in Cromer, Manitoba is situated on higher ground, and therefore was outside the flood zone but still experienced heavy rains.

4 - 16 June 2014, the Board received two letters of complaint from landowners. These letters listed several concerns pertaining to project construction issues including the handling of topsoil, drainage, equipment cleaning procedures and safety concerns.

5 - On 9-10 July 2014, NEB staff and Inspection Officers conducted an inspection of the Line 3 Replacement project. NEB staff visited approximately 20% of the project area and focused primarily on one of the landowner properties. Inspection officers observed that multiple construction mitigation measures committed to by Enbridge in its Environmental Protection Plan (EPP) to conserve topsoil, control erosion, control vegetation (including weeds) and manage drainage were not implemented (see Table 1: Non-Compliance Summary in Inspection Report from 9-10 July 2014). This lack of EPP implementation resulted in numerous non-compliances observed both on and off the construction RoW causing environmental damage to wetlands and property damage to a substantial amount of agricultural land.

6 - On 18 July 2014, an Inspection Officer Order DL-001-2014 was issued, requiring Enbridge to stop work on the project with the exception of remedying immediate safety concerns on the RoW. Mandatory actions included: installing fencing and signage around open excavation sites and trenches, as well as creating safe access across the RoW to enable the landowners to move their farm equipment. Further, the Order required Enbridge to complete a detailed assessment and subsequent action plan to address all safety and environmental issues, present and future access to agricultural lands, and take into account all concerns presented by landowners. The first specified measure of the Inspection Officer Order stated that, "Enbridge will not re-start construction, nor bring any construction equipment, or allow a contractor to access the site in relation to re-starting construction on the Line 3 Replacement Project (Project) until a resume work order is issued by a NEB Inspection Officer, except for the purposes of measure 2 and 3". This stop-work order did not preclude the Company from doing work associated with the environmental requirements contained in Condition 3 of Order XO-E101-016-2013 or additional safety remediation required as a result of non-compliances noted as a result of the 9-10 July 2015 inspection.

7- On 31 July 2014, NEB staff received Enbridge's Action Plan for the Enbridge Pipelines Inc. Line 3 Replacement Project at Ex-Cromer. This plan contained a detailed assessment of all safety and environmental protection (including access to agricultural lands) and a timetable for addressing each item.

8 - On 6-8 August 2014, NEB Inspectors conducted a second inspection of the RoW. Conditions on the RoW were similar to those noted during the July inspection. Enbridge representatives also stated they had recently completed weed spraying to control weed growth on the ROW notes in the 9-10 inspection. Prior to the close of the inspection, NEB inspectors provided a summary of their findings to Enbridge staff and indicated they would continue to review information obtained during the inspection. NEB inspectors confirmed that Enbridge had made progress on environmental concerns. With regards to landowner requests to implement fine cleaning procedures, NEB inspectors clarified they were not requesting Enbridge to implement these measures. Inspectors stated that should they choose to implement these procedures, it would satisfy the outstanding landowner concerns. In the absence of these measures, additional documentation addressing landowner concerns would be required prior to the Order being lifted.

9 - Following the issuance of the IO Order, Enbridge claimed that the environmental damage was a result of heavy weather that could not have been predicted. However, Enbridge's own EPP had anticipated mitigations for such conditions that NEB Inspectors found where inadequately implemented during the July inspection. The non-compliances observed by NEB staff (see Table 1: Non-Compliance Summary in Inspection Report from 9-10 July 2014) were confirmed by a 3rd Party Consultant in Enbridge's Action Plan submitted on 31 July 2014.

10 - On 28 August 2014, NEB Inspection Officer was satisfied that all the conditions of Order # DWL-001-2014 were met, and lifted the Order.

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 6 February 2015, a notice of violation to Enbridge Pipelines Inc. for failure to comply with a term or condition of any certificate, license, permit, leave or exemption granted under the Act (ss. 2(3) of the AMP Regulations) on its Edmonton to Hardisty Pipeline Project (AMP-002-2015).						
<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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
On 31 July 2014, NEB staff received Enbridge's Action Plan for the Enbridge Pipelines Inc. Line 3 Replacement Project at Ex-Cromer. This plan contained a detailed assessment of all environmental protection (including access to agricultural lands) and a timetable for addressing each item. This implementation is currently underway and the Board will continue to monitor the long-term effectiveness of these measures.						
<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	--
Enbridge was negligent in it's commitments relating to environmental protection as outlined in its EPP as it did not take all reasonable steps to prevent environmental damage.						
<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
Enbridge responded to landowner environmental concerns noted above only when required to do so by the Inspection Officer Order.						
<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 type="checkbox"/>	<input checked="" type="checkbox"/>	--
Failure to report violation in any of the bi-weekly project updates required as a condition of project approval.						
<input checked="" type="checkbox"/> Steps taken to prevent reoccurrence of violation / Mesures prises pour prévenir les récidives	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
As required by the Order, Enbridge submitted a revised EPP to address non-compliance and landowner concerns noted in the Order.						
<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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
NEB inspection found that a lack of EPP implementation resulted in numerous non-compliances observed both on and off the construction RoW causing significant environmental damage to wetlands and property damage to a substantial amount of agricultural land. Specific non-compliances included improper soil handling, rutting, weed control, and erosion posing a significant hazard to the environment.						
The non-compliances observed by NEB staff were confirmed by a 3rd Party Consultant in Enbridge's Action Plan submitted on 31 July 2014.						
(c) TOTAL GRAVITY VALUE / COTE DE GRAVITÉ GLOBALE						+5
(d) DAILY PENALTY / SANCTIONS QUOTIDIENNES (The baseline penalty, adjusted for the final gravity level) (Pénalité de base d'après la côte de gravité)					\$	100,000
(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» Not Applicable						
4. TOTAL PENALTY AMOUNT / MONTANT TOTAL DE LA PÉNALITÉ					\$	100,000
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)						25 March 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: 403-606-0779 / 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.

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: 403-606-0779/ 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