

National Energy
Board



Office national
de l'énergie

File: OF-Surv-Vio-T260-164
Unauthorized activity file: UX-2012-134

4 February 2013

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Solicitor & Counsel, Legal Services
BC Hydro
6911 Southpoint Drive
Burnaby, B.C, V3N 4X8

**Re: Notice of an Inspection Officer Order issued pursuant to section 51.1 of the
*National Energy Board Act***

Dear ██████████,

In regard to your request for a listing of unauthorized activities BC Hydro and/or its contractors have been involved in around federally regulated pipelines, please find below a listing of these activities. Note that this listing is for unauthorized activities reported by both Kinder Morgan Canada (Trans-Mountain) and Westcoast Energy Inc. (conducting business as Spectra Energy Transmission) pipelines. Both of these companies are regulated by the Board and have pipelines and facilities in areas affected by BC Hydro operations. We (Board staff) are providing a listing of unauthorized activities for both pipelines because it appears that the issues are similar with both companies and would allow you address this more comprehensively.

This listing indicates a pattern of safety issues which, could result in negative consequences and impacts to safety of the public, the environment and the integrity of the pipelines, should they continue to occur.

Whether directly or indirectly involved, BC Hydro is required to follow the requirements of section 112 of the *National Energy Board Act* and the *Pipeline Crossing Regulations, Part I*.

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Calgary, Alberta T2P 0X8

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Telephone/Téléphone : 403-292-4800
Facsimile/Télécopieur : 403-292-5503
<http://www.neb-one.gc.ca>
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Facsimile/Télécopieur : 1-877-268-8803

Trans Mountain Pipeline ULC (Owned and Operated by Kinder Morgan Canada)

1. **UX 2012-134** – (date: 11 Nov 2012; location: 7230 Kitchener Street, Burnaby, BC). A contractor (Rokstad Power – formerly Galbraith Power) hired by BC Hydro was discovered to have excavated a hole for a new hydro pole three meters from the pipeline without notification to Kinder Morgan via BC One Call or without receiving permission from the pipeline company.
2. **UX2012-094** – (date: 25 Sep 2012; location: Valemount, BC). A power pole was replaced within the 30 metre safety zone with no permission from the pipeline company.
3. **UX2012-018** – (date: 14 Feb 2012; location: 834 Cottonwood Ave, Coquitlam, BC). This concerned a hydro pole replacement by BC Hydro/Galbraith Power within 12 meters of the pipeline without receiving permission from the pipeline company or without a Kinder Morgan inspector present.
4. **UX2011-068** – (date: 22 Dec 2011; location: Grosvenor Road and Douglas Road, Surrey, BC.) BC Hydro/Trico Excavating was discovered excavating for a roadway within 7.5 meters of the pipeline with no permission from the pipeline company or without a Kinder Morgan inspector present.
5. **UX2010-038** – (date: 10 Apr 2010; 7065 Bayview Drive, Burnaby, BC). This concerned a hydro pole replacement by BC Hydro/Galbraith Power/Groundhog Construction within 1.2 meters of the pipeline without notification to BC One Call or without receiving permission from the pipeline company (or without a Kinder Morgan inspector present).
6. **UX2010-045** – (date: 6 May 2010; location: Burnaby Trail System). This concerned the installation of power poles and anchors within the 30 meter safety zone with no permission from Kinder Morgan or without a Kinder Morgan inspector present.
7. **UX2009-028** – (date: 25 Feb 2009; location: Kamloops, BC). This concerned the installation of a power pole by BC Hydro/Plowe Power Systems within the 30 meter safety zone.
8. **UX2009-017** – (date: 31 Mar 2009; location: 818 Cottonwood Street, Burnaby, BC). This concerned the installation of a power pole by BC Hydro/RS Line Construction within 30 meters of the pipeline without permission from Kinder Morgan.
9. **UX2009-012** – (date: 10 Mar 2009; location: 9125 Capella Drive, Burnaby, BC). This concerned an excavation around an underground BC Hydro vault within 30 meters of the pipeline without permission from Kinder Morgan.

10. **UX2008-031** – (date: 7 May 2008; location: 170 Flood Hope Road, Hope, BC). BC Hydro had installed a power pole within 2.8 meters of the TMPL pipeline with no permission from Kinder Morgan.

Westcoast Energy Inc. (Conducting business as Spectra Energy Transmission)

1. **UX2012-009** – (date: 31 Jan 2012). A contractor for BC Hydro (Quantum Murray Remediation Services) conducted emergency excavation to drain water at a Chilliwack substation with no approval from Westcoast.
2. **UX2010-048** – (date: 4 May 2010; location: Abbotsford, BC.) BC Hydro obtained permission for the construction of an aerial crossing across the pipeline but did not notify Westcoast prior to the activity taking place.

In light of the above crossing violation reports received, Board Inspectors have issued an Inspection Officer Order pursuant to section 51.1 of the *National Energy Board Act* to BC Hydro. This Order is attached. . This Inspection Officer Order is a collaborative compliance tool Board Inspectors use to help facilitate proper compliance with *the National Energy Board Act*.

Board staff are available to provide guidance to BC Hydro in the development of proper procedures or policies to ensure compliance with section 112 of the *National Energy Board Act* and the *Pipeline Crossing Regulations*. As further described in the Inspection Officer Order, BC Hydro is asked to provide the Board's inspectors with its written procedure by 29 March 2013, at the latest. For additional information, please contact the individual listed below, by telephone or e-mail, or at the Board's toll-free number 1-800-899-1265.

[Redacted]

Regards,

[Redacted]

Inspection Officer
National Energy Board

Encl: 1

c.c. Greg Reimer, Executive Vice President, Transmission & Distribution

National Energy
Board



Office national
de l'énergie

ORDER NO. KAR - 001 - 2013
Officer's initials *Order #* *Year*

IN THE MATTER OF THE *NATIONAL ENERGY BOARD ACT*, AN ORDER UNDER
SECTION 51.1

BC Hydro

Full name of the person or Contractor

From January 2008 to January 2013, the undersigned *National Energy Board* Inspection Officer (the Inspector) received a number of unauthorized activities reports stemming from work conducted in the province of British Columbia (BC) by BC Hydro or its contractors on or near the pipeline right-of-ways of Trans Mountain Pipeline ULC on behalf of Trans Mountain LP (Kinder Morgan) and Westcoast Energy Inc., carrying on business as Spectra Energy Transmission (Westcoast), and reported by Kinder Morgan and Westcoast. Specifically these were:

Kinder Morgan right-of-way:

1. **UX 2012-134** – (date: 11 Nov 2012; location: 7230 Kitchener Street, Burnaby, BC). A contractor (Rokstad Power – formerly Galbraith Power) hired by BC Hydro was discovered to have excavated a hole for a new hydro pole three meters from the pipeline without notification to Kinder Morgan via BC One Call or without receiving permission from the pipeline company.
2. **UX2012-094** – (date: 25 Sep 2012; location: Valemount, BC). A power pole was replaced within the 30 metre safety zone with no permission from the pipeline company.
3. **UX2012-018** – (date: 14 Feb 2012; location: 834 Cottonwood Ave, Coquitlam, BC). This concerned a hydro pole replacement by BC Hydro/Galbraith Power within 12 meters of the pipeline without receiving permission from the pipeline company or without a Kinder Morgan inspector present.
4. **UX2011-068** – (date: 22 Dec 2011; location: Grosvenor Road and Douglas Road, Surrey, BC.) BC Hydro/Trico Excavating was discovered excavating for a roadway within 7.5 meters of the pipeline with no permission from the pipeline company or without a Kinder Morgan inspector present.
5. **UX2010-038** – (date: 10 Apr 2010; 7065 Bayview Drive, Burnaby, BC). This concerned a hydro pole replacement by BC Hydro/Galbraith Power/Groundhog Construction within 1.2 meters of the pipeline without notification to BC One Call or without receiving permission from the pipeline company (or without a Kinder Morgan inspector present).

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Canada

6. **UX2010-045** – (date: 6 May 2010; location: Burnaby Trail System). This concerned the installation of power poles and anchors within the 30 meter safety zone with no permission from Kinder Morgan or without a Kinder Morgan inspector present.
7. **UX2009-028** – (date: 25 Feb 2009; location: Kamloops, BC). This concerned the installation of a power pole by BC Hydro/Plowe Power Systems within the 30 meter safety zone.
8. **UX2009-017** – (date: 31 Mar 2009; location: 818 Cottonwood Street, Burnaby, BC). This concerned the installation of a power pole by BC Hydro/RS Line Construction within 30 meters of the pipeline without permission from Kinder Morgan.
9. **UX2009-012** – (date: 10 Mar 2009; location: 9125 Capella Drive, Burnaby, BC). This concerned an excavation around an underground BC Hydro vault within 30 meters of the pipeline, but without permission from Kinder Morgan.
10. **UX2008-031** – (date: 7 May 2008; location: 170 Flood Hope Road, Hope, BC). BC Hydro had installed a power pole within 2.8 meters of the TMPL pipeline with no permission from Kinder Morgan.

Westcoast right-of-way:

1. **UX2012-009** – (date: 31 Jan 2012; location: Chilliwack, BC). A contractor for BC Hydro (Quantum Murray Remediation Services) conducted emergency excavation to drain water at a Chilliwack substation with no approval from Westcoast.
2. **UX2010-048** – (date: 4 May 2010; location: Abbotsford, BC.) BC Hydro obtained permission for the construction of an aerial crossing across the pipeline but did not notify Westcoast prior to the activity taking place.

The Inspector noted the following: BC Hydro has failed to make sure that written permission has been obtained for excavation, construction, or installation of a facility. The Inspector also noted that BC Hydro did not properly implement procedures to ensure the oversight of contractors hired by it to perform excavation and construction work. In the future, BC Hydro must make sure that a written permission to construct a facility above, below or along a federally-regulated pipeline, or to carry out an excavation within 30 metres of a federally-regulated pipeline, has been obtained by the pipeline company, as required by the NEB *Pipeline Crossing Regulations, Part I* (the Regulations).

In view of the foregoing, the Inspector has reasonable grounds to believe that the continued lack of safety awareness for excavation within 30 metres of a federally-regulated pipeline or for construction above, below or belong a federally-regulated pipeline may cause a hazard to the safety of the public or to the employees of the company or a detriment to the environment or to property.

Therefore, BC Hydro is HEREBY ORDERED, pursuant to section 51.1 of the *National Energy Board Act*, to

- X take the measures Stop work Immediately by 29 March 2013
specified below for
guarding the safety or
security of the public or
employees of the company
or for protecting the
environment or property

Specified measures

BC Hydro shall demonstrate to the Inspector that it will provide adequate oversight of contractors it hires, by making sure that it obtains all the necessary written permissions to construct a facility above, below or along a federally-regulated pipeline, or to carry out an excavation within 30 metres of a federally-regulated pipeline, in accordance with the Regulations.

In addition to ongoing compliance with the Regulations, BC Hydro shall amend its current safety procedure, or develop and implement a safety procedure, as described below. The primary goal of the safety procedure is to demonstrate how BC Hydro is to manage oversight of its contractors. At a minimum, the safety procedure will provide for the following:

1. BC Hydro shall provide a copy of the NEB publication *Excavation and Construction Near Pipelines* to all contractors hired by BC Hydro that excavate within 30 metres of a federally-regulated pipeline or that construct facilities above, below or along federally-regulated pipelines (hereafter referred to as the "Work").
2. BC Hydro shall require any contractor that it plans to hire to perform Work to demonstrate that the contractor has appropriate safety procedures in place to comply with the Regulations.
3. When performing Work, BC Hydro, or any contractor hired by BC Hydro, must obtain written permission from the pipeline company where the Regulations so require, and, if permission is obtained, must comply with all conditions set out in the written permission.

. In the event of a modification to the Work for which permission from the pipeline company has been obtained, BC Hydro or any contractor hired by BC Hydro must communicate the modification to the pipeline company and validate that the pipeline company's permission remains applicable to the Work, as modified.

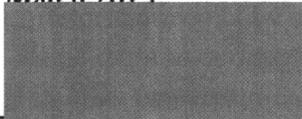
4. BC Hydro shall make its own inspector present on all worksites where Work is being performed. BC Hydro's inspector shall make sure that the necessary written permission has been obtained from the pipeline company prior to the start of excavation or construction. BC Hydro's inspector shall also make sure that the contractor is complying with any conditions and instructions set out in the written permission.
5. The BC Hydro inspector present on a worksite where Work is being performed must have the requisite qualifications and authority to stop the Work in situations where the contractor hired by BC Hydro:
 - a) Has not obtained the necessary written permission from the pipeline company; or,
 - b) Where written permission has been obtained, is not in compliance with the conditions set out in the written permission.
6. Where a contractor hired by BC Hydro contravenes the Regulations or the conditions of the pipeline company's written permission, BC Hydro shall consider whether there are deficiencies in its safety procedure and if so, identify and remedy such deficiencies.
7. Where a BC Hydro contractor contravenes the Regulations or the conditions of the pipeline company's written permission, and where BC Hydro identifies and remedies any deficiencies in the procedure mentioned in paragraph eight, BC Hydro shall verify the implementation of its procedure to avoid future unauthorized activities.

BC Hydro shall make sure that the procedure is fully and successfully implemented, and shall comply with the procedure on an ongoing basis.

As stated above, if BC Hydro (or a contractor hired by BC Hydro) is required to perform Work, the Regulations shall be complied with. In addition, BC Hydro shall amend its existing safety procedures or develop a safety procedure which includes the specific measures described in paragraphs one to nine above.

BC Hydro shall provide the Inspector with a written commitment as described above as soon as possible after receiving this Order.

To have this Order lifted, BC Hydro must provide the Board Inspector with a written procedure that includes the specific measures described in paragraphs one to nine above at a minimum, no later than 29 March 2013

Signed by: 
Inspection Officer ID No.: 1554

Inspection Officer: 

Failure to comply with this Order will result in further enforcement action by the Board. Failure to comply with this Order constitutes an offence punishable on conviction.