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Regulator

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File OF-Surv-Gen-T217-01
8 June 2022

Lars Olthafer
Blake, Cassels & Graydon LLP
Suite 3500, Bankers Hall East Tower
855 – 2 Street SW
Calgary, AB T2P 4J8

Dear Lars Olthafer:

Trans-Northern Pipelines Inc. (TNPI)
Application dated 10 December 2021 pursuant to Condition 4.f of Amending Safety Order AO-001-SO-T217-03-2010, as amended (ASO), section 43 of the Canadian Energy Regulator Onshore Pipeline Regulations (OPR), section 69 of the Canadian Energy Regulator Act (CER Act), and Part III of the National Energy Board Rules of Practice and Procedure, 1995
Application for Raising of Restricted Maximum Operating Pressure ASO Schedule B, Line 11 – NPS 8 ASIG Lateral

Before: K. Penney, Presiding Commissioner;
T. Grimoldby, Commissioner; W. Jacknife, Commissioner

On 10 December 2021, the Commission of the Canada Energy Regulator (**Commission**) received an application from TNPI, pursuant to condition 4.f of the ASO, to raise the restricted maximum operating pressure (**MOP**) for Line 11 in Schedule B of the ASO (the **ASIG Lateral**) and to vary the ASO, pursuant to section 69 of the CER Act, to remove that line segment from the ASO. TNPI also applied, pursuant to section 43 of the OPR, to reduce the approved MOP¹ for the ASIG Lateral, as identified in Order No. OPLO-2-16-71, to the requested MOP, if such approval is necessary. Finally, TNPI applied, pursuant to section 69 of the CER Act, to vary Order No. OPLO-2-16-71 to reflect the reduction in the approved MOP.

For clarity, the approved MOP is 6412 kPa, the restricted MOP is 4488 kPa, and the requested MOP is 5771 kPa.

For the reasons set out below, the Commission has decided to approve TNPI's application.

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¹ The ASO uses the term "authorized MOP" to describe the approved MOP for each pipeline or pipeline segment. The Commission has decided to use the term "approved MOP" going forward and has used that term throughout this letter in place of "authorized MOP".

Application to raise the restricted MOP, pursuant to condition 4.f of the ASO

The Commission grants TNPI's application to raise the restricted MOP for the ASIG Lateral, on the basis that it has met the ASO condition 4.f requirements.

Condition 4.f of the ASO states:

- f. TNPI shall, at least 45 days prior to any request to raise the restricted MOP of any pipeline or section of the pipeline, file a request with the Board for approval with information that includes, but is not limited to:
 - i. Information demonstrating that TNPI has implemented Conditions 4.a to 4.e of this Order;
 - ii. Evidence that, as a result of lifting the pressure restriction, the integrity condition on the pipeline or section of pipeline will not be negatively affected within 36 months after the date of the return to service application;
 - iii. An Engineering Assessment prepared in accordance with CSA Z662-15 Clause 10.1 that demonstrates that the pipeline or section of pipeline is safe to operate at its maximum operating pressure. The Engineering Assessment must include, but not be limited to, the following items:
 - 1. A Risk Assessment guided by CSA Z662 Annex B including guidelines for documented reporting by CSA Z662 Annex B Clause B.6;
 - 2. An imperfection assessment including, but not be limited to, pressure cycling, tool validation (Probability of Detection, Probability of Identification, and Sizing Accuracy), representative material properties, defect interaction, time-to-failure calculations, Safety Factor targets, revised defect growth rates and Probability of Exceedance; and
 - 3. Required mitigative, preventive and monitoring measures.
 - 4. A schedule for implementation of all mitigation, preventive and monitoring programs identified in Condition 4.f.iii.3.

With respect to condition 4.f.i, the Commission finds that TNPI provided sufficient information to demonstrate that it has implemented conditions 4.a to 4.e of the ASO as they pertain to the ASIG Lateral. In particular, TNPI provided a summary of the documentation that it submitted prior to this application to meet the requirements of conditions 4.a to 4.e, which the Commission or its predecessor, the National Energy Board, considered and, where appropriate, approved.

TNPI submitted an engineering assessment to meet the condition 4.f.iii requirements and stated that it also provides evidence to meet the requirements of condition 4.f.ii. The Commission finds that TNPI has met the requirements of condition 4.f.ii. The engineering assessment concludes that the integrity condition of the ASIG Lateral will not be negatively affected within 36 months of the date of TNPI's application. The engineering assessment identified pipeline anomalies that require mitigation within 36 months of the date of the application and recommended implementation of required mitigation at least two years before predicted failure of the anomalies. Accordingly, the assessment of anomalies encompassed a minimum of five years from the date of the application.

The Commission finds that the engineering assessment meets the requirements of condition 4.f.iii. The Commission notes that this condition requires the engineering assessment to be prepared in accordance with CSA Z662-15 Clause 10.1 and that a new edition of CSA Z662 came into force on 19 June 2019, which was incorporated into the OPR. The Commission further notes that the engineering assessment used the more stringent requirements of CSA Z662-19 where they exceeded those of CSA Z662-15. The Commission is satisfied that the

engineering assessment includes all of the information required by condition 4.f.iii and demonstrates that the ASIG Lateral is safe to operate at the requested MOP.

Application to reduce the approved MOP to the requested MOP, pursuant to section 43 of the OPR

The Commission grants TNPI's application to reduce the approved MOP for the ASIG Lateral to the requested MOP.

TNPI submitted that, if an OPR section 43 application is required to reduce the approved MOP for the ASIG Lateral, then the information it provided to meet the condition 4.f requirements also satisfy the information requirements for its OPR section 43 application, as set out in Guide F of the Filing Manual.

Section 43 of the OPR states:

If a company proposes a change of service or an increase in the maximum operating pressure for the pipeline, the company shall submit an application for the change or increase to the Commission.

The Guidance Notes for the OPR state that a change in pressure of the pipeline contents below the MOP may constitute a change in service if there are Commission-imposed restrictions in place.

The Commission finds that the information TNPI provided to meet the condition 4.f requirements include the necessary information for its OPR section 43 application and that this information sufficiently supports TNPI's request to reduce the approved MOP for the ASIG Lateral. The engineering assessment addresses the engineering information listed in Guide F of the Filing Manual. The Commission accepts TNPI's submission that implementation of the requested MOP will not result in environmental impacts, because TNPI will not make any physical changes to the ASIG Lateral. The Commission also accepts TNPI's submission that it does not anticipate any impact on its ability to satisfy the service requirements of its shippers because, even though the requested MOP is less than the approved MOP, the throughput capacity is determined by other interconnecting components of the TNPI pipeline system. Accordingly, the Commission grants TNPI's application to reduce the approved MOP to the requested MOP.

Applications to vary the ASO to remove the ASIG Lateral from Schedule B and to vary Order No. OPLO-2-16-71 to change the approved MOP to the requested MOP, pursuant to CER Act section 69

The Commission grants TNPI's requests to vary Order No. OPLO-2-16-71 to reflect the requested MOP as the approved MOP for the ASIG Lateral and to vary the ASO to remove the ASIG Lateral from Schedule B.

TNPI applied to vary the ASO to remove the ASIG Lateral from Schedule B, on the basis that it is seeking to increase the restricted MOP to a level that is below the approved MOP on a permanent basis, rather than to return to the approved MOP, which would have resulted in the ASO no longer applying to this pipeline segment. TNPI also applied to vary Order No. OPLO-2-16-71, which identifies the approved MOP, to reflect the requested MOP.

Subsection 69(1) of the CER Act provides that the Commission may review, vary, or rescind any decision or order it makes. There is no automatic right of review; rather, the Commission

has a discretionary power to review its decisions, which it must exercise sparingly and with caution.²

The Commission considers applications for review through a two-step process.³ In the first step, the Commission considers whether the applicant has raised a doubt as to the correctness of the decision based on an error of law or jurisdiction, changed circumstances or new facts that have arisen since the close of the original proceeding, or facts that were not placed in evidence in the original proceeding and that were then not discoverable by reasonable diligence.⁴ The application must also include the nature of the prejudice or damage that has resulted or will result from the decision or order.⁵ If the Commission finds that the applicant has met the first step, then it will proceed to the second step and review the decision on its merits.

The Commission finds that TNPI has met the first part of the test with respect to both orders on the basis that the information TNPI provided to meet the condition 4.f requirements of the ASO demonstrate a change in circumstances for the ASIG Lateral relative to those that existed at the time that it was listed in Schedule B.

The Commission also finds that TNPI could be prejudiced if Order No. OPLO-2-16-71 was not varied to reflect the requested MOP as the newly approved MOP, because TNPI has demonstrated through its application that it is safe to operate the ASIG Lateral at the requested MOP, but not at the MOP currently identified in the order as the approved MOP, such that the Commission may decide to impose additional safety orders in future, if the approved MOP is not updated. On this basis, the Commission grants TNPI's request to vary Order No. OPLO-2-16-71 to reflect the requested MOP as the approved MOP for the ASIG Lateral.

The Commission further finds that TNPI would be prejudiced if the ASO was not varied to remove the ASIG Lateral from Schedule B, because condition 2 of the ASO requires TNPI to operate the pipelines and pipeline segments listed in Schedule B at 70 per cent of their approved MOPs, such that TNPI would be required to operate the ASIG Lateral at 70 per cent of its newly approved MOP. Given that the Commission has approved TNPI to operate the ASIG Lateral at the requested MOP, based on TNPI's demonstration that it is safe to do so, there is no reason for the ASO to continue to apply to the ASIG Lateral. Accordingly, the Commission has decided to grant TNPI's request to vary the ASO to remove the ASIG Lateral from Schedule B.

Amending Orders AO-005-SO-T217-03-2010 and AO-001-OPLO-2-16-71 are attached.

Variation to ASO condition 4.f wording

When reviewing TNPI's application to raise the restricted MOP for the ASIG Lateral, it came to the Commission's attention that the wording of condition 4.f did not clearly reflect its intent. To avoid any future confusion about the condition 4.f requirement, the Commission has varied the wording, pursuant to CER Act section 33 and subsection 69(1), as follows:

² *Filing Manual*, Guide O at page 5O-2; MH-052-2018, Trans Mountain Expansion Project (**TMEP**) (Reconsideration), NEB Ruling No. 22 at page 3 ([A96969](#)); GH-002-2017, NOVA Gas Transmission Ltd. Application for the Sunde Crossover Project, NEB Ruling No. 3 at page 3 ([A87308](#)); MH-023-2020, TMEP detailed route hearing, Commission ruling at page 6 ([C07025](#)).

³ *National Energy Board Rules of Practice and Procedure*, 1995, Part III.

⁴ *National Energy Board Rules of Practice and Procedure*, 1995, para 44(2)(b).

⁵ *National Energy Board Rules of Practice and Procedure*, 1995, para 44(2)(c).

Previous wording:

TNPI shall, at least 45 days prior to any request to raise the restricted MOP of any pipeline or section of the pipeline, file a request with the Board for approval with information that includes, but is not limited to:

Revised wording:

TNPI shall, at least 45 days before it would like any increases to the restricted MOP of any pipeline or section of pipeline to take effect, file a request for approval to increase the restricted MOP, with information that includes, but is not limited to:

This revised wording is reflected in Amending Order AO-005-SO-T217-03-2010.

Yours sincerely,

Signed by

Ramona Sladic
Secretary of the Commission

Attachments



ORDER AO-005-SO-T217-03-2010

IN THE MATTER OF the *Canadian Energy Regulator Act* (**CER Act**) and the regulations made thereunder; and

IN THE MATTER OF an application made by Trans-Northern Pipelines Inc. (**TNPI**), pursuant to section 69 of the CER Act, dated 10 December 2021, filed with the Canada Energy Regulator (**CER**) under File OF-Surv-Gen-T217 01.

BEFORE the Commission of the CER (**Commission**) on 8 June 2022.

WHEREAS the CER regulates the construction and operation of the TNPI pipeline system;

AND WHEREAS on 20 September 2016, the National Energy Board issued a letter decision and Amending Safety Order AO-001-SO-T217-03-2010, which it amended on 24 October 2016 and 11 April 2017, and the Commission further amended on 17 July 2020;

AND WHEREAS the Commission received an application from TNPI, dated 10 December 2021, to:

- a) raise the restricted maximum operating pressure (**MOP**) for the ASIG Lateral for a return to service at a newly established unrestricted MOP, in accordance with condition 4.f of Amending Safety Order AO-001-SO-T217-03-2010, as amended, and section 43 of the *Canadian Energy Regulator Onshore Pipeline Regulations* (**OPR**);
- b) vary Amending Safety Order AO-001-SO-T217-03-2010, as amended, to remove the ASIG Lateral, pursuant to section 69 of the CER Act; and
- c) vary Order No. OPLO-2-16-71, if necessary, to identify the requested MOP as the approved MOP, pursuant to section 69 of the CER Act.

AND WHEREAS TNPI's application pertains to Line Number 11 in Schedule B of Amending Safety Order AO-001-SO-T217-03-2010, as amended, which identifies the subject pipeline segment as the NPS 8 CAFAS Lateral;

AND WHEREAS the NPS 8 CAFAS Lateral has since been renamed the NPS 8 ASIG Lateral;

AND WHEREAS on 8 June 2022, the Commission approved TNPI's application to raise the restricted MOP to the requested MOP and to reduce the approved MOP to the requested MOP for the ASIG Lateral;

AND WHEREAS on 8 June 2022, the Commission granted TNPI's request to vary Amending Safety Order AO-001-SO-T217-03-2010, as amended;

AND WHEREAS Amending Safety Order AO-001-SO-T217-03-2010, as amended, remains in force and is further amended by this Amending Order;

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IT IS ORDERED that:

1. Pursuant to subsection 69(1) of the CER Act, Amending Safety Order AO-001-SO-T217-03-2010, as amended, is varied, by deleting Line 11 in Schedule B to remove the NPS 8 ASIG Lateral. The varied Schedule B is attached to this order.
2. Pursuant to section 33 and subsection 69(1) of the CER Act, the wording of condition 4.f is revised as follows:

Previous wording:

TNPI shall, at least 45 days prior to any request to raise the restricted MOP of any pipeline or section of the pipeline, file a request with the Board for approval with information that includes, but is not limited to:

Revised wording:

TNPI shall, at least 45 days before it would like any increases to the restricted MOP of any pipeline or section of pipeline to take effect, file a request for approval to increase the restricted MOP, with information that includes, but is not limited to:

THE COMMISSION OF THE CANADA ENERGY REGULATOR

Signed by

Ramona Sladic
Secretary of the Commission

SCHEDULE B**Order AO-005-SO-T217-03-2010****Trans-Northern Pipelines Inc.****Variation to Amending Safety Order AO-001-SO-T217-03-2010, as amended****Schedule B – Pressure Reduction of 30% of Approved MOP (as Specified)**

Line Number	Line Section	Outside Diameter (mm)	Wall Thickness (mm)	Approved MOP (KPa)	Reduced MOP (KPa) (70% MOP)
1	NPS 10 Montreal to Ste Rose	273.1	7.8	8275	5793
2	NPS 10 Dorval Lateral	273.1	6.35	9653	6757
3	NPS 10 Farran's Point to Cummer Junction	273.1	7.8	8275	5793
4	NPS 10 Cummer Junction to Oakville	273.1	7.8	8275	5793
5	NPS 16 Nanticoke to Hamilton	406	6.35, 7.14	8094,9067	5665,6347
6	NPS 10 Hamilton Junction to Oakville	273.1	7.8	9067,8860	6347,6202
7	NPS 10 Clarkson Lateral	273.1	7.8	8275	5793
8	NPS 20 Clarkson Junction to Toronto Airport Loop	508	7.14	8274	5793
9	NPS 16 Oakville to Clarkson Loop	406	7.14	9067	6347
10	NPS 10 Toronto Airport Lateral	273.1	6.35	8894	6226
11	NPS 8 CAFAS Lateral	219.1	6.35	6412	4488
12	NPS 10 Montreal Feeder System	273.1			70% MOP



ORDER AO-001-OPLO-2-16-71

IN THE MATTER OF the *Canadian Energy Regulator Act* (**CER Act**) and the regulations made thereunder; and

IN THE MATTER OF an application made by Trans-Northern Pipelines Inc. (**TNPI**), pursuant to section 69 of the CER Act, dated 10 December 2021, filed with the Canada Energy Regulator (**CER**) under File OF-Fac-Surv-Gen-T217 01.

BEFORE the Commission of the CER (**Commission**) on 8 June 2022.

WHEREAS the CER regulates the construction and operation of the TNPI pipeline system;

AND WHEREAS on 20 September 2016, the National Energy Board issued a letter decision and Amending Safety Order AO-001-SO-T217-03-2010, which it amended on 24 October 2016 and 11 April 2017, and the Commission further amended on 17 July 2020;

AND WHEREAS the Commission received an application from TNPI, dated 10 December 2021, to:

- a) raise the restricted maximum operating pressure (**MOP**) for the ASIG Lateral for a return to service at a newly established unrestricted MOP, in accordance with condition 4.f of Amending Safety Order AO-001-SO-T217-03-2010, as amended, and section 43 of the *Canadian Energy Regulator Onshore Pipeline Regulations* (**OPR**);
- b) vary Amending Safety Order AO-001-SO-T217-03-2010, as amended, to remove the ASIG Lateral, pursuant to section 69 of the CER Act; and
- c) vary Order No. OPLO-2-16-71, if necessary, to identify the requested MOP as the approved MOP, pursuant to section 69 of the CER Act.

AND WHEREAS TNPI's application pertains to Line Number 11 in Schedule B of Amending Safety Order AO-001-SO-T217-03-2010, as amended, which identifies the subject pipeline segment as the NPS 8 CAFAS Lateral;

AND WHEREAS the NPS 8 CAFAS Lateral has since been renamed the NPS 8 ASIG Lateral;

AND WHEREAS on 8 June 2022, the Commission approved TNPI's application to raise the restricted MOP to the requested MOP and to reduce the approved MOP to the requested MOP for the ASIG Lateral;

AND WHEREAS on 8 June 2022, the Commission granted TNPI's request to vary Amending Safety Order AO-001-SO-T217-03-2010, as amended, and issued Order AO-005-SO-T217-03-2010;

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IT IS ORDERED that, pursuant to subsection 69(1) of the CER Act, Order No. OPLO-2-16-71 is varied to change the authorized MOP for the NPS 8 ASIG Lateral from 6412 kPa (identified in Order No. OPLO-2-16-71 as 930 psig) to the approved MOP of 5771 kPa (equivalent to 837 psig).

THE COMMISSION OF THE CANADA ENERGY REGULATOR

Signed by

Ramona Sladic
Secretary of the Commission