



DECISION

IN THE MATTER OF an application Potash Corporation of Saskatchewan Inc. (PCS) for a Permit to Construct Additional Pipeline at McCully Field.

November 28, 2007

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

IN THE MATTER OF an application by Potash Corporation of Saskatchewan Inc. (PCS) for
Additional Pipeline at McCully Field.

BOARD:

CHAIRMAN:

Raymond Gorman, Q.C.

MEMBERS:

Robert Radford
Steve Toner

BOARD COUNSEL:

Ellen Desmond

STAFF:

Todd McQuinn
John Lawton
Dave Young
Lorraine Légère
Juliette Savoie

APPLICANT:

Potash Corporation of Saskatchewan Inc. (PCS)

Mr. Peter Zed, Q.C.

There were not intervenors

DECISION

Potash Corporation of Saskatchewan Inc., (“the Applicant” or “PCS”), applied to the New Brunswick Energy and Utilities Board for a permit to construct additional pipelines at McCully Field.

In conjunction with the application, the Public Information Program has been filed and was approved by the Board on August 22, 2007. Open house sessions were held on September 13, 2007. A pre-hearing conference was scheduled for Saint John, New Brunswick on November 28, 2007. There were no filings of intervention in this matter prior to the pre-hearing, nor did any parties attend the pre-hearing in opposition to the application for a permit to construct a pipeline.

During the course of the pre-hearing conference, the Applicant made a Motion that the Board move from the pre-hearing conference to the hearing of the application and requested that a permit to construct be issued immediately.

The Applicant’s Motion was based on the following factors:

- No one has indicated an intention to intervene formally or otherwise.
- No intervenors appeared at the hearing in opposition to the application.
- PCS has met all technical and environmental requirements for work to be carried out with respect to the application and nothing further in this regard remains to be done.

The Board considered the Motion from the Applicant for a Permit to Construct the pipelines and has determined that a Permit to Construct as requested will be issued forthwith, subject to the 19 conditions contained in the Pipeline Coordinating Committee’s report to the New Brunswick Energy and Utilities Board dated October 25, 2007. The 19 conditions are as follows:

- Subject to Condition (2), PCS shall comply with all undertakings made by its counsel and witnesses, and shall construct the facilities and shall restore the land according to the evidence of its witnesses at this hearing and in accordance with the Pipeline Act, 2005, any other applicable legislation and the conditions contained in this decision.
- The Board's designated representative for the purpose of these conditions shall be the Director of Safety, or in his/her absences the Secretary of the Board. PCS shall advise the Board's designated representative of any proposed significant change in construction or restoration procedures, and except in an emergency, PCS shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed forthwith.
- PCS shall furnish the Board's designated representative with every reasonable facility for ascertaining whether the work has been, and is being, performed in accordance with this decision.
- PCS shall give the Board's designated representative ten days written notice, in advance of the commencement of construction.
- PCS shall designate one of its employees as project manager who will be responsible for the fulfillment of undertakings on the construction site and PCS shall provide the name of the project manager to the Board's designated representative.
- PCS shall notify the Board's designated representative of the date on which any installed pipeline is proposed to be pressure tested at least 72 hours prior to the start of the test.

- Both during and after construction, PCS shall monitor the effects upon the land and the environment., The Monitoring report to be kept on file at PCS and be available for review by the Board.
- The Monitoring report shall confirm PCS's adherence to Conditions (1) and (2) and shall include a description of the effects noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the construction upon the land and the environment. The Monitoring report shall describe the condition of the rehabilitated right-of-way.
- PCS shall attach to the Monitoring reports a log of all complaints that have been received during construction. Such logs shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- Where properties or structures exist within 200 metres of the pipeline and blasting is necessary, PCS shall:
 - i. Use restricted blasting techniques by ensuring that all charged acres are covered with blasting mats to eliminate flying rocks;
 - ii. Have the vibrations from blasting operations monitored and measured by a vibration measurement specialist;
 - iii. Notify all property owners within 200 metres of the proposed blasting in writing at least 24 hours prior to the blasting and confirmations (if necessary) of the actual day or days on which blasting will occur;

- iv. Have buildings within 200 metres of the blasting checked by an independent examiner before and after operations to check for problem areas.
- Where blasting is required, the well location and water quality of all wells within 500 metres of the pipeline shall be tested before and after blasting operations. Results of well testing shall be included in the post construction monitoring reports.
 - PCS shall take *immediate* corrective action upon being notified of deficiencies in environmental protection measures by an environmental inspector (from any agency).
 - PCS shall ensure that there is appropriate environmental training of contractor personnel.
 - Unless the Board otherwise directs, PCS shall maintain, in New Brunswick, copies of any permits, approvals or authorizations for the applied-for facilities issued by federal, provincial and other permitting agencies, which include environmental conditions or site-specific mitigative, monitoring and restorative measures. In addition, PCS shall file with the Board any subsequent variations to any permits, approvals or authorizations obtained prior to, or following, the commencement of construction.
 - Unless the Board otherwise directs, PCS shall maintain for audit purposes, in New Brunswick, a copy of the joining procedures and non-destructive testing procedures used on the project, together with all supporting documentation.
 - PCS shall preserve any historical materials found during construction and promptly notify the appropriate authorities of any such findings.

- PCS will inform and work in conjunction with the Union of New Brunswick Indians if any sites of archaeological significance to the aboriginal people are found during construction.
- PCS shall obtain and maintain liability insurance in a form acceptable to the Board. PCS shall furnish the Board with a certificate evidencing coverage and describing the relevant particulars prior to the start of construction. The certificate shall state that the Board will be notified not less than sixty (60) days prior to cancellation of or any material change in the policy.
- The permit to construct shall terminate December 31, 2008, unless otherwise ordered by the Board.

PCS is also required to amend the *Notice of Cancellation* in its insurance policies as follows: “Should any of the policies described herein be cancelled before the expiration date thereof, the insurer(s) affording coverage will mail 60 days written notice to the certificate holder named herein.”

Dated at the City of Saint John, New Brunswick this 28th Day of November, 2007

Original Signed by

Raymond Gorman, Q.C., Chairman

Original Signed by

Robert Radford, Member

Original Signed by

Steve Toner, Member