



LETTER DECISION

File OF-Fac-Gas-O115-2018-01 01
23 August 2019

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Dear Mr. Collins and Mr. Dansereau:

**Abandonment Hearing MHW-002-2019
Obsidian Energy Ltd. (Obsidian)
Application for Approval to Abandon One Lateral Pipeline (Project)**

The National Energy Board (NEB or Board) considered the above-referenced application filed with the Board on 25 September 2018 (Application). The Application describes activities related to the abandonment of the 3.58 kilometre (km), 168.3 mm outside diameter, natural gas Esther Court Pipeline (Pipeline). Pursuant to paragraph 74(1)(d) of the *National Energy Board Act* (NEB Act), and taking into account section 50 of the *National Energy Board Onshore Pipeline Regulations* (OPR), the Board has issued the attached Order ZO-O115-006-2019 (Order), the effect of which is to grant Obsidian leave to abandon the Pipeline. The attached Order sets out the conditions the Board has imposed on the Project.

The Board's reasons for its decision to issue the Order are set out below. In reaching its decision, the Board considered all of the evidence on the record related to this matter. The regulatory documents on file for the MHW-002-2019 proceeding are available in the [Project file](#) on the Board's website.

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1.0 Project Overview and the NEB Process

1.1 Application and Project Overview

On 25 September 2018, Obsidian filed their Application for leave to abandon in-place the Pipeline with a total estimated cost of \$45,485. Obsidian submitted information about land, engineering, environment and socio-economic matters with its Application and in its 15 March 2019 and 31 May 2019 responses to the Board's Information Requests No. 1 and No. 2.

The Project is located close to and crossing the Alberta-Saskatchewan border within agricultural lands which include freehold land and Saskatchewan Crown land (Saskatchewan Ministry of Agriculture) used for livestock pasture and cultivation. Abandonment activities will be limited to existing right-of-way (RoW) and if required, temporary work space may be requested from the landowner.

1.2 The NEB Process

Under the NEB Act, the Board must hold a public hearing to consider an application for leave to abandon a pipeline. The Board issued a Notice of Abandonment Hearing MHW-002-2019 for the Project (Notice) on 25 January 2019, which set out how the Board would consider the Application. The Board directed Obsidian to serve a copy of the Notice on all persons potentially impacted by the Project. The Notice indicated that any person potentially impacted by the Project wishing to participate in the Board's hearing process must file a letter with the Board by 20 February 2019.

The Board identified 21 Indigenous communities with asserted traditional territory in the Project area and on 23 January 2019, directed Obsidian to serve a copy of the Notice to these Indigenous communities. Details are discussed in section 2.5 of this Letter Decision. In the Notice of Hearing, the Board also directed Obsidian to serve a copy of it to Her Majesty the Queen in Right Canada as grantors of the Project's Utility RoW.

The Board received one letter from Mr. Barry Hager from Border Lone Farms Ltd. on 15 February 2019. On 21 February 2019, the Board contacted Mr. Hager, answered his process questions and confirmed that there were no outstanding concerns.

2.0 Assessment of the Application

2.1 Engineering Matters

Obsidian indicated that the Project will be carried out in accordance with *Canadian Standards Association Standard Z662-15: Oil and Gas Pipeline Systems* (CSA Z662-15) and the NEB OPR.

Obsidian further noted that it will conduct hazard assessments on the Pipeline to be abandoned to ensure proper handling, storage and/or disposal of onsite infrastructure, waste and materials.

Views of the Board

The Board finds that the Project's abandonment activities as described in the Application are consistent with Obsidian's commitment, and requirement to comply with CSA Z662-15 and the OPR. The Board is therefore satisfied with Obsidian's approach.

The Board notes that the new edition of the CSA Z662-19, Oil and Gas Pipeline Systems standard was released to the general public on 19 June 2019. As the OPR incorporates Z662 by reference "as amended from time to time", the new version of the standard has entered into force pursuant to the NEB OPR as of that date. The 2015 version of Z662 has been rescinded and replaced; it has no force or effect. An [Information Advisory](#) regarding CSA-Z662-19 was issued by the Board on 8 July 2019. The Board reminds Obsidian that it is obligated to comply with the new requirements in CSA Z662-19.

2.2 Economics Matters

Obsidian stated that the Project will have no implications to existing service on the Obsidian system. Obsidian stated that the estimated cost of the Project is \$45,485 and that it considers the Project to have a limited size and scope.

Views of the Board

The Board notes that the abandonment of the Pipeline is not expected to have any impact on existing service on the Obsidian system. Given the small size of the Project, the Board is satisfied that funds will be available to finance the abandonment through the financial resources of Obsidian. The Board notes that Obsidian will remain financially responsible for the Pipeline abandoned in-place. Further, the Board notes that the letter of credit filed by Obsidian with the Board, for the amount of the full Abandonment Cost Estimate (ACE) for all Obsidian-owned NEB-regulated pipelines, could be drawn upon were there unfulfilled abandonment or reclamation obligations.

The Board reminds Obsidian that should there be a material change to its ACE, that Obsidian must file an application with the Board. Improving the accuracy of ACEs is an ongoing process which benefits from learnings of abandonments as they take place. Therefore, the Board imposes ***Condition 4 – Quarterly Physical Abandonment Activity Cost Reports*** which requires Obsidian to provide actual cost data broken down by abandonment activity.

2.3 Environment Matters

Obsidian proposed to abandon the Pipeline in-place. The Pipeline will be isolated from Obsidian's system by cutting, purging, cleaning and capping the Pipeline. Obsidian stated that the proposed abandonment activities will: be limited to work areas at either end of the Pipeline RoW; be completed under frozen conditions to avoid and minimize impacts to the environment; and, take approximately seven days to complete. Obsidian intends to clean-up and reclaim the

disturbed portions of the RoW immediately following the abandonment procedures, or as soon as soil and weather conditions permit.

Obsidian noted that there are three wetlands within close proximity (45 metres) of the abandonment work areas. As well, it indicated that a drainage/ephemeral draw crosses the Pipeline RoW in SE 01-033-01 W4M and flows into a nearby wetland. No other watercourses were noted in the Project area, and Obsidian indicated that the Project was not expected to interact with fish or fish habitat.

Obsidian conducted a Phase I Environmental Site Assessment (ESA) in January 2019 to identify actual and potential sources of soil and/or groundwater contamination that may be present along the RoW. The Phase I ESA was undertaken as per the Canadian Standards Association Phase I ESA Standard Z768-01 and the Pipeline was found to pose a low potential risk to soil and groundwater quality of the area. No further environmental investigations were recommended as a result of the assessment. Obsidian's Environmental Protection Plan (EPP) includes a Contingency Plan for Impacted Soil and/or Groundwater, which outlines the steps it will take if soil or groundwater contamination is encountered during abandonment activities. These steps include notification to the NEB and remediation of the site to applicable regulatory guidelines.

Obsidian noted that there is potential habitat for sharp-tailed grouse and sensitive raptors within the livestock pastures crossed by the Pipeline RoW in SE 01-033-01 W4M and SE 02-033-29 W3M, and records of sensitive wildlife species within 5 km from the Pipeline RoW. To reduce effects to wildlife species, Obsidian stated that it would avoid conducting the abandonment activities within the breeding bird period (April 15 to August 15), or conduct migratory bird nest searches within seven days of the planned disturbance. As well, it noted that an Environmental Monitor would conduct searches for sensitive raptor stick nests within 1000 m of the Project. Obsidian committed to suspending work if wildlife species of concern were identified during abandonment activities, and consulting with the area biologist at either Alberta Environment or Saskatchewan Ministry of Environment.

Obsidian filed an EPP which describes the mitigation measures and procedures Obsidian will implement during abandonment activities to protect environmental features. Obsidian submitted that it will appoint a qualified Environmental Monitor to the Project.

Obsidian stated that the Project will be evaluated to determine the reclamation measures required and monitoring will occur after the first full growing season following completion of the reclamation measures. The purpose of the monitoring will be to assess the effectiveness of the mitigation and reclamation measures employed for soils and vegetation resulting from ground disturbance during abandonment activities. Obsidian submitted that reclamation monitoring will cease when ground conditions have stabilized and vegetation growth is well established.

Obsidian indicated that it would submit reports to the NEB after the first complete growing season following abandonment activities that describe the post-abandonment monitoring conducted and either demonstrate that the areas disturbed have been restored to equivalent land capability using the *Alberta 2010 Reclamation Criteria for Wellsites and Associated Facilities for Cultivated Lands* or that provide plans for further corrective actions or monitoring.

Views of the Board

The Board notes that the Project is not subject to the requirements of an Environmental Assessment under the *Canadian Environmental Assessment Act, 2012*. Environment matters were considered by the Board pursuant to the NEB Act.

The Board has reviewed Obsidian's application to abandon the Pipeline in-place and is of the view that there is low environmental risk of leaving the Pipeline in-place as it is comprised of small diameter pipe and will be purged, cleaned and capped at either end. The Board further notes that the results of the Phase I ESA report indicate that the abandoned Pipeline is expected to pose a low risk to soil and groundwater quality.

The Board notes that the proposed abandonment activities are limited in scope. While there is some potential for the Project activities to interact with wildlife and wildlife habitat (including species at risk and of provincial concern) and nearby wetlands, the Board is of the view that the mitigation measures outlined in Obsidian's EPP will be sufficient to avoid or minimize potential adverse environmental effects.

While Obsidian committed to reclaiming disturbed areas to equivalent land capability and submit reports to the NEB after the first complete growing season demonstrating that the disturbed areas are restored, the Board is imposing ***Condition 5 – Reclamation Reporting*** which sets out the requirements and schedule for filing those submissions and which includes the Pipeline RoW. Obsidian is required to file a Reclamation Report on or before 31 January after the first, third and fifth complete growing seasons following the completion of abandonment activities, demonstrating that the entire Pipeline RoW has reached or is on a trajectory to reaching equivalent land capability. If equivalent land capability has not been reached by fifth year reporting, the Board expects Obsidian to submit a schedule for reporting its progress towards that objective to the NEB.

Considering the nature and scope of the Project, Obsidian's proposed mitigation measures, and the implementation of Condition 5, the Board anticipates that any potential adverse environmental effects arising from the Project would be of limited geographic extent, short-term, reversible, and are not likely to cause any significant adverse environmental effects.

2.4 Public Consultation, Lands and Socio-Economic Matters

This section addresses Obsidian's public consultation program. Obsidian's Indigenous engagement is discussed in section 2.5.

Obsidian stated that there are five landowners and one occupant that are directly affected by the abandonment activities. Obsidian submitted that it will use existing land rights for the work associated with the abandonment and that the Pipeline will be abandoned in-place to minimize the potential for disturbance and disruption of cultivation activities resulting from excavation and

removal. Obsidian stated that the proposed abandonment activities will be limited to work areas at either end of the Pipeline RoW located on privately-owned agricultural land (i.e., pasture and cultivated land, respectively) in SE 01-033-01 W4M and the active wellsite in NE 31-032-25 W3M. Obsidian explained that following abandonment the land use will remain the same and reclamation, as outlined in the Project's EPP, will occur as soon as possible following abandonment activities and will follow agreements with landowners to ensure that land use remains the same and meets landowner needs. Obsidian also confirmed that appropriate signage will be maintained at the location where the Pipeline is being abandoned in-place.

Obsidian stated that the scope of the Project is small in scale and short-term in duration with activity expected to last seven days. In the event that previously-identified historical or archaeological resources are encountered, Obsidian asserted that abandonment will be suspended until the significance of the findings can be evaluated by a qualified archaeologist, and clearance to proceed is granted by Alberta Culture and Community Spirit and the Saskatchewan Heritage Conservation Branch. Obsidian further confirmed that a search for historical or archaeological resources should be conducted prior to commencing abandonment activities. Based on the planned mitigation and predicted residual effects, Obsidian stated that the environmental and socio-economic assessment determined that the Project will not likely result in significant adverse environmental or socio-economic effects and that significant cumulative effects are also not likely.

Obsidian notified landowners, an occupant and local authorities of the plan to abandon the Pipeline prior to filing the Application. Obsidian stated that it did not receive any issues or concerns regarding the abandonment plans. On 15 February 2019, the Board received one letter from Mr. Barry Hager from Border Lone Farms Ltd. asking various process questions regarding abandonments and questions specific to Obsidian's responsibility regarding the abandonment. On 21 February 2019, the Board contacted Mr. Hager and provided answers to his questions and confirmed that there were no outstanding concerns.

Views of the Board

The Board is satisfied that anyone potentially affected by the Project was given sufficient notice and had the opportunity to voice their concerns. The Board is of the view that the design and implementation of consultation activities were appropriate for the scale and scope of the Project.

The Board expects applicants to: identify the effects projects may have on socio-economic elements; identify mitigation measures they will implement to reduce those effects; and, assess the significance of any effects that would remain once the mitigation has been applied. The Board is satisfied that Obsidian has identified and addressed all relevant socio-economic effects associated with the Project. The Board notes the limited scope and duration of abandonment activities and is of the view that the Project is not likely to cause any significant socio-economic effects.

2.5 Indigenous Matters

Obsidian stated that abandonment activities will occur on private land within existing leases and will not affect traditional land or resource use. Obsidian stated that there are no Indigenous communities or organizations affected by the abandonment and no notification was needed to Indigenous communities in the Project area. Under subsection 24(1) of the NEB Act, the Board is required to hold public hearings for the leave to abandon the operation of a pipeline. Therefore, through its own assessment of publically known or asserted traditional territory information, the Board identified 21 Indigenous communities and required Obsidian to serve a copy of the Notice on all Indigenous communities.

Obsidian stated that on 5 February 2019 it received an email from Asini Wachi Nehiyawak (Mountain Cree Traditional Band) requesting additional information regarding the Project. Obsidian replied to Mountain Cree Traditional Band in a letter dated 12 March 2019 where it provided information on the Project including the abandonment process, existing leases and that no new lands would be disturbed. Obsidian confirmed that Mountain Cree traditional band was consulted and no concerns were raised.

Views of the Board

The Board is satisfied that all Indigenous communities potentially affected by the Project were given sufficient notice and had the opportunity to voice their concerns. The Board is of the view that the design and implementation of consultation activities were appropriate for the scale and scope of the Project.

The Board is also of the view that potential adverse effects of the Project on the interests, including rights, of affected Indigenous peoples are not likely to be significant and can be effectively addressed.

3.0 Decision

Based on the foregoing consideration and reasons, the Board grants Obsidian leave to abandon the Pipeline as set out on Schedule A of the attached Order ZO-O115-006-2019.



S. Parrish
Member

Calgary, Alberta
August 2019

Attachment

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MHW-002-2019
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