



Department of Justice
Canada

Ministère de la Justice
Canada

Prairie Region
301 - 310 Broadway
Winnipeg, Manitoba
R3C 0S6

Région des prairies
310, Broadway pièce 301
Winnipeg (Manitoba)
R3C 0S6

Telephone/Téléphone: (204) 984-6961
Facsimile/Télécopieur: (306) 984-6488

Internet: dayna.anderson@justice.gc.ca

Our File: 2-128959
Notre dossier:

File No. OF-Fac-Oil-N304-2010-01 01

May 22, 2012

VIA ELECTRONIC FILING
TO FOLLOW BY FACSIMILE

**Secretary to the Joint Review Panel
Enbridge Northern Gateway Project
444 – Seventh Avenue S.W.
Calgary, Alberta T2P 0X8**

Attention: Ms. Sheri Young

Dear Madam:

**Re: Hearing Order OH-4-2011
Enbridge Northern Gateway Project Application
Federal Government Participants –
Registration to Participate in Procedural Conference**

Further to the Panel's letter dated May 9, 2012 and to Procedural Direction # 7, please accept this letter as our registration to participate in the upcoming Procedural Conference on behalf of the federal Government Participants (GPs).

We offer the following preliminary comments in advance of the Conference.

General

1. Counsel intends to participate in the Procedural Conference in person. Representatives from the federal GPs may observe by telephone or WebEx. We will contact Ms. Niro directly to make the necessary arrangements.

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Questioning Phase

2. We are prepared to attend final hearings at such locations as the Panel may determine to be the most convenient and efficient for all parties.
3. For the duration of the questioning phase, we support sitting from Monday to Saturday for two week periods, followed by a one week break. We are prepared to sit beyond 1:00 pm on hearing days.
4. While we do not object to completing questioning on oral evidence prior to questioning on written evidence, clarification will be required from the Panel. For example, some witnesses have provided both oral and written evidence, some of which may cover more than one topic on the Panel's proposed List of Issues. It will be important for all parties to understand the scope and timing of the questioning for each witness.
5. With respect to the proposed List of Issues, the federal GPs will require clarification regarding the scope of each Issue in order to determine the most appropriate federal witnesses. It may be helpful to consider marine and terrestrial issues separately, as these issues may engage different impacts, environmental effects, socioeconomic effects, etc.
6. We may seek to question some witnesses during the course of the hearings, with leave of the Panel as provided for in the Hearing Order. The federal GPs are engaged in an ongoing review of the evidence before the Panel, following which we expect to receive instructions respecting cross examination. We would appreciate the Panel's clarification of the procedure by which GPs should seek leave to cross examine.
7. We do not object to the 'pooling' of appropriately qualified expert witnesses, though it will be critical to have a procedure by which the experts are qualified *prior* to questioning.
8. We do not object to questioning witnesses remotely, though such procedures should be limited to situations of necessity such as an inability to travel. We suggest that videoconferencing is the most appropriate means by which to conduct remote examinations, and that steps should be taken to confirm who is present with the witness during the examination.

Final Argument Phase

9. Our preference is to provide written argument on all substantive issues, supplemented by oral argument.
10. We are prepared to sit at such locations as the Panel may determine to be the most convenient and efficient for all parties.

11. With respect to addressing any Constitutional Questions, we submit that it would be appropriate to schedule a separate hearing in advance of the final argument phase.

Thank you for the opportunity to provide our preliminary comments on these issues.

Yours truly,

A handwritten signature in black ink, appearing to be 'Dayna S. Anderson', written over a horizontal line.

Dayna S. Anderson
Counsel
Prairie Region
Department of Justice Canada

DSA/dc