

Enbridge Northern Gateway Project

Joint Review Panel

File OF-Fac-Oil-N304-2010-01 01
20 December 2012

Ms. Josette Wier
4259 McCabe Road
Smithers, BC V0J 2N7

Dear Ms. Wier:

**Northern Gateway Pipelines Inc. (Northern Gateway)
Application for the Enbridge Northern Gateway Project
Hearing Order OH-4-2011
Notice of Motion filed by Josette Wier dated 26 November 2012
Ruling No. 135**

The Joint Review Panel (Panel) for the Enbridge Northern Gateway Project is in receipt of a motion filed by Josette Wier dated 26 November 2012. The motion asks the Panel to permit the late filing of an attached report, titled “2011 Skeena Estuary Study” authored by John Kelson.

The motion states that Mr. Kelson is a biologist with 20 years of research experience, and could be available for questioning if needed. Further, the motion states that the report provides the first baseline data on the estuary since 1975, and is needed because Northern Gateway’s EHHRA model domain does not extend to the Skeena estuary, which could be contaminated in the event of a spill upstream. Finally, the motion states the report could not have been filed earlier as it was only completed in late October 2012 due to time constraints.

The Panel set out the criteria for late filing of any documents in Section 4 of the Hearing Order. In considering the criteria, the Panel believes that while the information contained in this report may have some relevance, there is sufficient information on the record as to the potential for spill effects within the Skeena estuary and the estuary’s ecological importance. Further, the motion does not provide a persuasive reason for why the report could not have been completed and submitted earlier. The Panel is of the view that the prejudice to parties by permitting the late filing of this evidence on the record at this stage of the hearing outweighs any probative value it may have.

For these reasons, the motion is denied.

Should you have any questions, please contact Mr. Andrew Hudson, Legal Counsel at 403-299-2708 or 1-800-899-1265.

Yours truly,



for Sheri Young
Secretary to the Joint Review Panel



National Energy Board
Office national de l'énergie

Canada



Canadian Environmental Assessment Agency

Agence canadienne d'évaluation environnementale