

Enbridge Northern Gateway Project Joint Review Panel

File OF-Fac-Oil-N304-2010-01 01
20 June 2013

To: All Parties to Hearing Order OH-4-2011

**Northern Gateway Pipelines Inc. (Northern Gateway)
Application for the Enbridge Northern Gateway Project (Project)
Hearing Order OH-4-2011
Motion filed by BC Nature and Nature Canada dated 17 June 2013 (Motion)
Ruling no. 165**

Motion

On 17 June 2013, BC Nature and Nature Canada filed a Motion, requesting:

1. That the Joint Review Panel (Panel) allow any party, at that party's request, the ability to participate remotely in real-time, including the ability to raise and speak to procedural objections, during the Bottom Up Oral Argument phase, or any portion thereof indicated by that party.
2. That the Panel allow BC Nature and Nature Canada to participate remotely in real-time, including the ability to raise and speak to procedural objections, during the Bottom Up Oral Argument of Northern Gateway.

In the Motion, BC Nature and Nature Canada argued that parties adverse in interest must be allowed the opportunity to raise an objection if a party makes reply submissions that could be interpreted to exceed or conflict with Procedural Direction #12 and the common law governing oral reply submissions. BC Nature and Nature Canada further argued that the importance of allowing other parties to participate remotely and make objections and submissions is heightened when the party making oral argument has the last word.

BC Nature and Nature Canada submitted that natural justice dictates that parties who cannot attend in person during the Bottom Up portion of Oral Argument should be accorded the same opportunity as parties who attend in person to make timely objections to the Panel by remote participation.

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Comments

During the hearing on 19 June 2013, the Panel Chair provided a comment period for parties to respond to the motion and asked that parties address the logistics of what this remote participation might entail. The Panel received comments in support of the Motion from the Haisla Nation, Gitxaala Nation, the Coalition, the Northwest Institute for Bioregional Research and the Friends of Morice Bulkley.

The Province of Alberta and Canadian Association of Petroleum Producers took no position on the Motion but indicated that they did not foresee a need for such a process. Northern Gateway indicated that it had no issue with the requested remote participation. It also indicated that it is aware of, and will comply with, the rules governing final reply and expects the Panel to enforce those rules. No party provided comments addressing the logistics of the requested remote participation.

Ruling

The Panel rules that it is not persuaded that procedural fairness requires that it provide parties with a process to allow them to make motions and comment on motions of others remotely in real-time, particularly in the absence of any suggestions how this can be efficiently accomplished.

The Motion is dismissed.

Yours truly,



Sheri Young
Secretary to the Joint Review Panel