



DECISION

**IN THE MATTER OF an Application dated July 19,
2006 by Corridor Resources Inc. for a Permit to
Construct Pipelines and Related Facilities from the
Natural Gas Field to Connect with the Maritimes and
Northeast Pipeline**

October 5, 2006

NEW BRUNSWICK

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

DECISION

Corridor Resources Inc. (“Corridor”) applied, pursuant to Part 2 of the *Pipeline Act, 2005, S.N.B. c. P-8.5 (“Act”)*, to the New Brunswick Board of Commissioners of Public Utilities (“Board”) on July 19, 2006 for a permit to construct pipelines and related facilities (“facilities”) from the McCully natural gas field to connect with the Maritimes & Northeast pipeline.

Public notice of the application was given and a pre-hearing was held on August 23, 2006 in Sussex to discuss the procedure to be followed. Parties who registered as intervenors were:

Department of Energy for the Province of New Brunswick
Enbridge Gas New Brunswick (“EGNB”)
Kings East Development Partnership (“KEDP”)
Maritime & Northeast Pipeline
McCully Pipeline Landowners Association
Potash Corporation of Saskatchewan Inc. (“PCS”)
Union of New Brunswick Indians (“UNBI”)
D.E.B. Consulting
Christine Bell
David and Patricia Bowes
Dale Bustin
Donald Bustin
Ernest Cummings
Joseph R. Cummings
Glenn and Penny Foster
David Freeze
Harley Hicks
Shirley Ann Hunt
Cynthia MacLeod
Gerald MacLeod

Jayne McQuinn
Brenda Lee Morrell
Elizabeth McQuinn Nixon
Nancy Secord
Robert C. Secord
Sandra Secord
Troy and Dawn Thompson
Peter and Norma Van de Brand
George Vanderlaan
Janet Vanderlaan
Paul and Lynn Vasey
Andrew Wallace
Dorothy Wallace
John W. Wallace

A schedule was established by the Board that allowed for written questions to and answers from Corridor, the filing of evidence by intervenors and written questions to and answers from intervenors. Evidence was filed by EGNB, KEDP, PCS and UNBI.

A public hearing was held on September 27 and 28, 2006 in Sussex. A number of preliminary matters were raised at the start of the hearing. The Board's rulings with respect to them are contained in the transcript. A brief summary is provided in this decision.

At the outset, Corridor submitted that the evidence of UNBI dealt with issues relating to land claims and treaty rights and that these issues were not within the jurisdiction of the Board. UNBI provided a lengthy response that included reference to several court decisions. UNBI stated that they needed only to make a *prima facie* case for aboriginal title in order for the Board to deal with the matter. The Board ruled that since UNBI had not provided notice to the Attorney General of Canada or to the Attorney General of New

Brunswick it could not consider any evidence related to aboriginal rights in making its decision on the application by Corridor.

EGNB, as a preliminary matter, requested that the evidence of KEDP be struck from the record, as the evidence was an attempt to have the Board address matters that should only be dealt with by way of a separate application. After hearing the response by KEDP, EGNB stated that it was agreeable to having the evidence converted to a letter of comment. The Board ruled that the requests made by KEDP, in its evidence, were not appropriate for this proceeding and converted its evidence to a letter of comment.

As an additional preliminary matter, EGNB was seeking the Board's approval to include various conditions in the permit to construct. The Board agreed to consider these conditions, if it decided to grant a permit to construct.

PCS, in its preliminary matter, requested an assurance from the Board that the Board's final decision would address the interplay between sections 28 and 30 of the *Act* and the impact of these legislative provisions on PCS. The Board agreed that this issue would be addressed in its final decision.

UNBI further raised two preliminary matters that questioned the Board's ability to continue to hear the application. The Board ruled that it had jurisdiction and would continue the hearing in good faith.

The Board has specifically considered section 7 of the *Act* which provides as follows:

Considerations by the Board

7 In considering an application for a permit, the Board shall take into account all matters that it considers relevant and shall consider

(a) the location of the proposed pipeline and its effect upon public health and safety and the environment,

(b) the financial responsibility of the applicant,

(b) in the case of a pipeline for the transmission of natural gas, the existence of present and future markets for the pipeline, and

(d) such other matters as it considers relevant in the public interest.

The Board has also considered all of the evidence and the submissions of the parties.

As a result of the foregoing, the Board makes the following decision:

The Board is of the opinion that the construction and operation of the facilities proposed by Corridor is in the public interest. As such, a permit to construct pursuant to section 8 of the *Act* will be issued and will include the terms and conditions contained herein.

The concerns of PCS must be addressed. PCS has an existing mining operation in Penobsquis and has a clearly defined area wherein their mining may occur, pursuant to their mining lease.

The evidence indicates that portions of the proposed pipeline and/or the gathering lines will be built over areas that have already been mined, are currently being mined or areas that may be mined in the future.

Section 28 of the *Act* provides as follows:

28. Unless authorized by the Board, no person shall construct a pipeline or part of a pipeline so as to interfere with the existing workings or *extension of a mine* or quarry or obstruct any opening to them. (Emphasis added).

PCS has clearly indicated to the Board that the proposed pipeline does not interfere with their current workings. However, both PCS and the Board are mindful of section 30 of the *Act*, which provides as follows:

30. No person shall work a mine or minerals lying under a pipeline or within the controlled area without the approval of the Board, which approval is subject to such terms and conditions as the Board considers necessary for the protection and safety of the public and the pipeline.

The difficulty for PCS is the interplay between section 28 and section 30 of the *Act*. In particular, PCS does not wish to make future applications to the Board, to continue their planned and upcoming mining activities, once the pipeline has been built.

PCS further submits that “*extension of a mine*” (as outlined in section 28) should be defined to include the entire area defined in their mining lease. Thereafter, and if the Board accepts this definition, PCS would not be required to make an application under section 30 to continue their proposed mining activities.

During this hearing, the Board has had the benefit of expert evidence from Mr. Richard Beddoes, principal engineer at Golder Associates Ltd. Mr. Beddoes testified that he gave careful consideration to the existing mining operations at PCS, had reviewed the historical mining records at PCS, had considered any surface movements made over the mine and had fitted historical data to possible future mining scenarios.

Mr. Beddoes, on direct examination, testified that, if PCS conducted mining activity at depths no shallower than 200 meters, it would be *highly unlikely* that the mining would have any impact on the pipeline constructed over the mine.

After careful consideration, the Board concludes that “*an extension of a mine*” includes the entire area contained within the PCS mining lease. As such, PCS will not be required to make any application to the Board pursuant to section 30 of the *Act*, provided PCS continues to mine as specifically provided in their filed evidence and provided PCS does not mine at depths less shallow than 200 meters.

As indicated above, the Board agreed to consider those conditions that had been previously negotiated between EGNB and Corridor. It is important to note that, prior to the hearing, EGNB had filed evidence raising various issues and concerns in relation to this application. In particular, EGNB was interested in ensuring that a portion of Corridor’s supply of natural gas could be made available for local markets, if and when the need arose. EGNB was also concerned with how a connection might be made to Corridor’s line and on what terms or conditions such a connection might occur.

On September 21st, 2006, and also prior to the commencement of this hearing, EGNB indicated to the Board that EGNB and Corridor had reached an agreement wherein the concerns of EGNB had been addressed. As indicated, EGNB was specifically requesting that conditions (which were acceptable to both EGNB and Corridor) be attached to Corridor's permit to construct and thereafter, the evidence of EGNB would be converted to a letter of comment.

These conditions include such items as recognizing the priority of local markets; allowing EGNB to connect to Corridor's line at prices that are reflective of market conditions; and ensuring that Corridor's line had the physical capability to backhaul supply.

The Board has carefully reviewed the conditions that have been requested by EGNB and the Board has considered all of the comments made by intervenors in relation to this issue. Recognizing that EGNB is the general franchise holder for natural gas in the Province of New Brunswick and giving specific consideration to section 7 of the *Act*, the Board considers that the agreement between EGNB and Corridor is in the public interest and as such, those conditions will be specifically enumerated in the permit.

The Board appreciates the efforts of EGNB, PCS and Corridor in negotiating agreements that will allow the facilities to be constructed and operated in a manner that satisfactorily addresses the concerns of all three parties. These agreements resulted in a considerable reduction to the time required for the public hearing.

Comments made at the hearing indicate to the Board that the relationship between Corridor and some of the landowners is less than satisfactory. This is of considerable concern to the Board.

The Board believes that the construction and operation of the proposed facilities is in the public interest. The Board is of the view that the landowners recognize that benefits can accrue should the facilities be built. The Board believes that the concerns of the landowners relate to the possible effects on their land and their operations that might occur during construction and operation of the facilities.

The Board wishes to assure all parties that its staff will be extensively involved throughout the construction phase to ensure that the facilities are installed in a proper and safe manner. The staff will also participate in testing procedures to ensure that the facilities can be operated safely before any licence to operate is granted by the Board. The Board will also provide an opportunity for interested parties to comment prior to deciding whether or not to grant a licence to operate.

Corridor has made a commitment to minimize the negative impacts that will occur from constructing the proposed facilities and to address any ongoing safety and environmental concerns. The Board has taken note of the evidence of Mr. Norman Miller and his recognition of the benefits that would accrue from continued contact and relationship building with the community. His undertakings on these issues were satisfactory to the

Board. To start this process, the Board intends to hold an initial information session where Board staff will meet with the landowners and Corridor representatives. Board staff will contact parties in the near future to arrange this meeting.

Corridor has also agreed to perform all remedial activities that are necessary as a result of its construction of the facilities. The Board has carefully considered section 38 of the *Act* and section 20 of the *Pipeline Regulation* that provides as follows:

Damage to property

38(1) If in constructing or operating a pipeline, any damage occurs to a structure, other pipeline or to a private or public utility, the permittee or licensee shall immediately cause the damage to be repaired, unless an arrangement has otherwise been made with the owner.

38(2) Any person, including a permittee or licensee and its agents or employees or anyone acting on its behalf, shall be liable to the owner or occupier for all damages caused to land or property while carrying out activities authorized by this Act.

Restoration of right-of-way and work areas

20 After a pipeline is constructed, the right-of-way and temporary work areas of the pipeline shall be restored to a condition similar to the surrounding environment and consistent with the previous land use, unless the Board specifies otherwise.

The Board considers that Corridor will comply with these legislative provisions in a proper and responsible manner. Corridor and the landowners must coexist for many years and the Board believes that it is in the public interest that they do so amicably. The Board strongly encourages both Corridor and the landowners to make their best efforts to resolve issues amongst themselves. However, the Board considers it important to clearly state that, if disagreements cannot be resolved by the parties, then either party may bring

the matter to the Board. The Board will investigate and issue a decision as to what should be done. In this vein, the Board highlights section 31 of the *Act* which provides as follows:

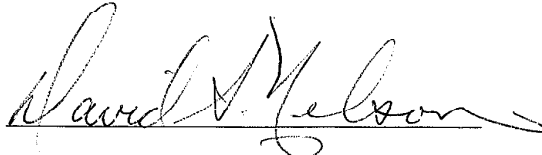
Suspension of construction or operation

31(1) Where it appears to the Board that in the construction or operation of a pipeline or in the undertaking of a ground disturbance there has been or is a contravention of this Act, the regulations, a term or condition of a permit or licence or an order, direction or approval of the Board, or that a method or practice employed or any equipment or installation at a pipeline or in a controlled area is improper, hazardous, inadequate or defective,

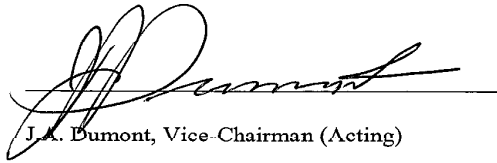
- (a) the Board may order that the construction or operation of the pipeline, or the ground disturbance, be suspended and not resume until
 - (i) the contravention ceases and this Act or the regulation, permit, licence, order, direction or approval of the Board is complied with,
 - (ii) approved methods or practices are employed or adopted,
 - (iii) remedial measures are taken, or
 - (iv) proper, safe and adequate equipment is used,
- (b) the Board may order that the construction or operation of the pipeline, or the ground disturbance, be suspended until further order, or
- (c) the Board may initiate an inquiry.

In light of the foregoing, a permit to construct will issue to Corridor on the terms and conditions attached hereto as Schedule A.

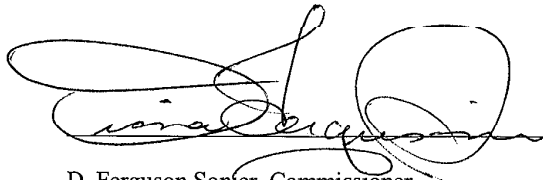
DATED at the City of Saint John this 5th day of October, 2006



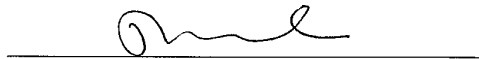
D.S. Nelson, Chairman (Acting)



J.A. Dumont, Vice-Chairman (Acting)



D. Ferguson Sontar, Commissioner



P. LeBlanc-Bird, Commissioner

Schedule A

Conditions

1. Subject to Condition (2), Corridor 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.
2. 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. Corridor shall advise the Board's designated representative of any proposed significant change in construction or restoration procedures, and except in an emergency, Corridor 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.
3. Corridor 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.
4. Corridor shall give the Board's designated representative ten days written notice, in advance of the commencement of construction.
5. Corridor shall designate one of its employees as project manager who will be responsible for the fulfillment of undertakings on the construction site and Corridor shall provide the name of the project manager to the Board's designated representative.
6. Corridor 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.
7. Both during and after construction, Corridor shall monitor the effects upon the land and the environment, and shall file three copies of both an interim and final monitoring report in writing with the Board. The interim monitoring report shall be filed within six months of the in-service date and the final monitoring report shall be filed within 15 months of the in-service date.
8. The interim monitoring report shall confirm Corridor'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. This report shall describe any outstanding concerns identified during construction.
9. The final environmental monitoring report shall describe the condition of the rehabilitated right-of-way. The results of the monitoring programs and analysis shall be included and

recommendations made as appropriate. Any deficiency in compliance with undertakings shall be explained.

10. Corridor shall attach to its interim and final 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.
11. Where properties or structures exist within 200 metres of the pipeline and blasting is necessary, Corridor 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.
12. 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.
13. Corridor shall take *immediate* corrective action upon being notified of deficiencies in environmental protection measures by an environmental inspector (from any agency).
14. Corridor shall ensure that there is appropriate environmental training of contractor personnel.
15. Unless the Board otherwise directs, Corridor 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, Corridor shall file with the Board any subsequent variations to any permits, approvals or authorizations obtained prior to, or following, the commencement of construction.
16. Unless the Board otherwise directs, Corridor 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.
17. Corridor shall preserve any historical materials found during construction and promptly notify the appropriate authorities of any such findings.

18. Corridor 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.
19. Corridor shall obtain and maintain liability insurance in a form consistent with the agreement reached by Mr. Dennis March and Mr. Cris Daniels. Corridor 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.
20. Corridor shall comply with all requirements stated in the Certificate of Determination under the EIA legislation dated July 25, 2006 that was issued with respect to this project.
21. Corridor shall file with the Board a copy of the executed agreement with the Royal Bank of Canada confirming that the bank will provide a \$30 million non-revolving term loan.
22. Within four months of EGNB notifying Corridor that it wants to interconnect with Corridor's pipeline for the purpose of providing local distribution service, Corridor shall provide access to its pipeline for this purpose. EGNB shall provide all necessary labour, equipment and materials at EGNB's cost to develop the required gas custody transfer facilities. All appropriate industry standards will be followed.
23. For a period of two years from the issuance of a licence to operate its pipeline, Corridor will reserve 1000 gigajoules per day of natural gas supply and related transportation on its pipeline for the purposes of serving local distribution markets. Upon four months notice that EGNB intends to develop local distribution requiring an interconnection as set out in item 1, Corridor will enter into a transportation/supply contract for at least the reserved amount for a period of no less than five years (unless purchaser requests a shorter term). Terms and conditions including price of gas supplies, as delivered at the interconnection of EGNB's proposed distribution system and the Corridor pipeline shall not be any less favourable than those available at the interconnection of the M&NP and Corridor facilities at the time. Corridor shall provide proof of such terms. Corridor shall make these supplies available to any party who is licensed to market natural gas on the EGNB distribution system (including EGNB) and provides proof of serving the communities EGNB is proposing to serve through an interconnection as set out in item 22.
24. Prior to the issuance of a licence to operate its pipeline, Corridor shall provide proof to EGNB and the Board that its facilities and the associated facilities of M&NP related to the Corridor pipeline are capable of delivering supplies to local distribution markets developed through an interconnection as between EGNB's distribution system and Corridor's pipeline, received at the interconnection of the M&NP and Corridor facilities. That is, the pipeline will be capable of backhauling supplies from supply sources downstream of the Corridor pipeline. Further Corridor commits to, once its facilities become operational, coordinate and commence backhauling in the event of a production outage. Corridor shall not be responsible for the acquisition of gas supply to be backhauled during a production outage; however Corridor may wish to arrange for this in any gas supply agreements it enters for local markets. If further terms and conditions, including price, are deemed

necessary by EGNB or Corridor to effect a backhaul service, Corridor and EGNB shall develop those terms.

25. In the case of partial natural gas production interruption where Corridor is unable to fully meet all of its downstream obligations, Corridor shall ensure that local markets as served through an interconnection as set out in item 22, have priority of Service from such remaining production.
26. The Board shall have authority to deal with Corridor's pipeline and related facilities, including disposition and any compensation payable, should Corridor choose to cease, or become derelict in, operating the pipeline.
27. In the case of a dispute between Corridor and EGNB on any matter contemplated herein the Board shall have authority to review and order such resolution as it sees fit.
28. The permit to construct shall terminate December 31, 2007, unless otherwise ordered by the Board.