



National Energy Board

Reasons for Decision

**Trans Québec & Maritimes
Pipeline Inc. PNGTS
Extension**

MH-2-98

August 1998

Detailed Route Hearings

National Energy Board

Reasons for Decision

In the Matter of

Trans Québec & Maritimes Pipeline Inc. PNGTS Extension

Consolidation of Decision Documents for
Trans Québec & Maritimes Pipeline Inc.
PNGTS Extension Detailed Route Hearings

MH-2-98

August 1998

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Abbreviations and Glossary

Certificate GC-96	Certificate of Public Convenience and Necessity issued by the Board to TQM for the construction of the PNGTS Extension pipeline
GH-1-97	National Energy Board Hearing Order in respect of Trans Québec & Maritimes Pipeline Inc.'s application dated 30 April 1997 to construct a pipeline from Lachenaie to East Hereford, Québec that would connect to the Portland Natural Gas Transmission System in New Hampshire.
GH-1-97 Reasons for Decision	National Energy Board's April 1998 reasons for decision with respect to TQM's application to construct a pipeline from Lachenaie to East Hereford, in the Province of Québec.
m	metre
NEB or Board	National Energy Board
NEB Act	<i>National Energy Board Act</i>
PNGTS	Portland Natural Gas Transmission System
Right of Way	Legal right of passage over public or private lands, or, the area in which this right is exercised.
TQM or the Company	Trans Québec & Maritimes Pipeline Inc.

Recital and Appearances

IN THE MATTER OF the *National Energy Board Act* and the Regulations made thereunder;

IN THE MATTER OF an application dated 7 April 1998 by Trans Québec & Maritimes Pipeline Inc., pursuant to section 33 of the *National Energy Board Act*, for approval of the Plan, Profile and Book of Reference respecting the detailed route for the PNGTS Extension, a natural gas transportation system from Lachenaie to East Hereford, in the Province of Québec;

IN THE MATTER OF written statements of opposition filed concerning specific sections of the detailed route of the pipeline.

IN THE MATTER OF National Energy Board Hearing Order and Directions on Procedure MH-2-98.

HEARD in Magog-Orford, Québec on 22, 23, 24, 27, 28, 29, 30 and 31 July 1998, and on 1 and 3 August 1998.

BEFORE:

A. Côté-Verhaaf	Presiding Member
P. J. Trudel	Member
G. Delisle	Member

APPEARANCES:

Parties	Represented by
Trans Québec & Maritimes Pipeline Inc.	L- A. Leclerc M. Imbeau
J. Brissette	P. Lessard
L. Savaria	Himself
Gesco Lussier Ltée	J. Ferron
National Energy Board	G. Grondin

Introduction

Purpose

The purpose of this publication is to consolidate into a single document the Decision Letter and six separate Reasons for Decision, which were issued following detailed route hearings for the Trans Québec and Maritimes ('TQM') Pipeline Inc. PNGIS Extension. The consolidation is done solely to make the information more readily accessible.

Background

On 30 April 1997 TQM applied to the National Energy Board ('the "Board"') for a certificate of public convenience and necessity authorizing the construction and operation of additional gas transmission facilities. These facilities would extend the current TQM pipeline system from Lachenaie, east of Montréal, to East Hereford, near the Canada-United States border. The new facilities included approximately 213 kilometres of 610 mm pipeline, two compressor stations, two meter stations, and associated minor ancillary facilities. Following a November to December 1997 hearing, these facilities were approved by the Board in April 1998 and Certificate of Public Convenience and Necessity GC-96 was issued.

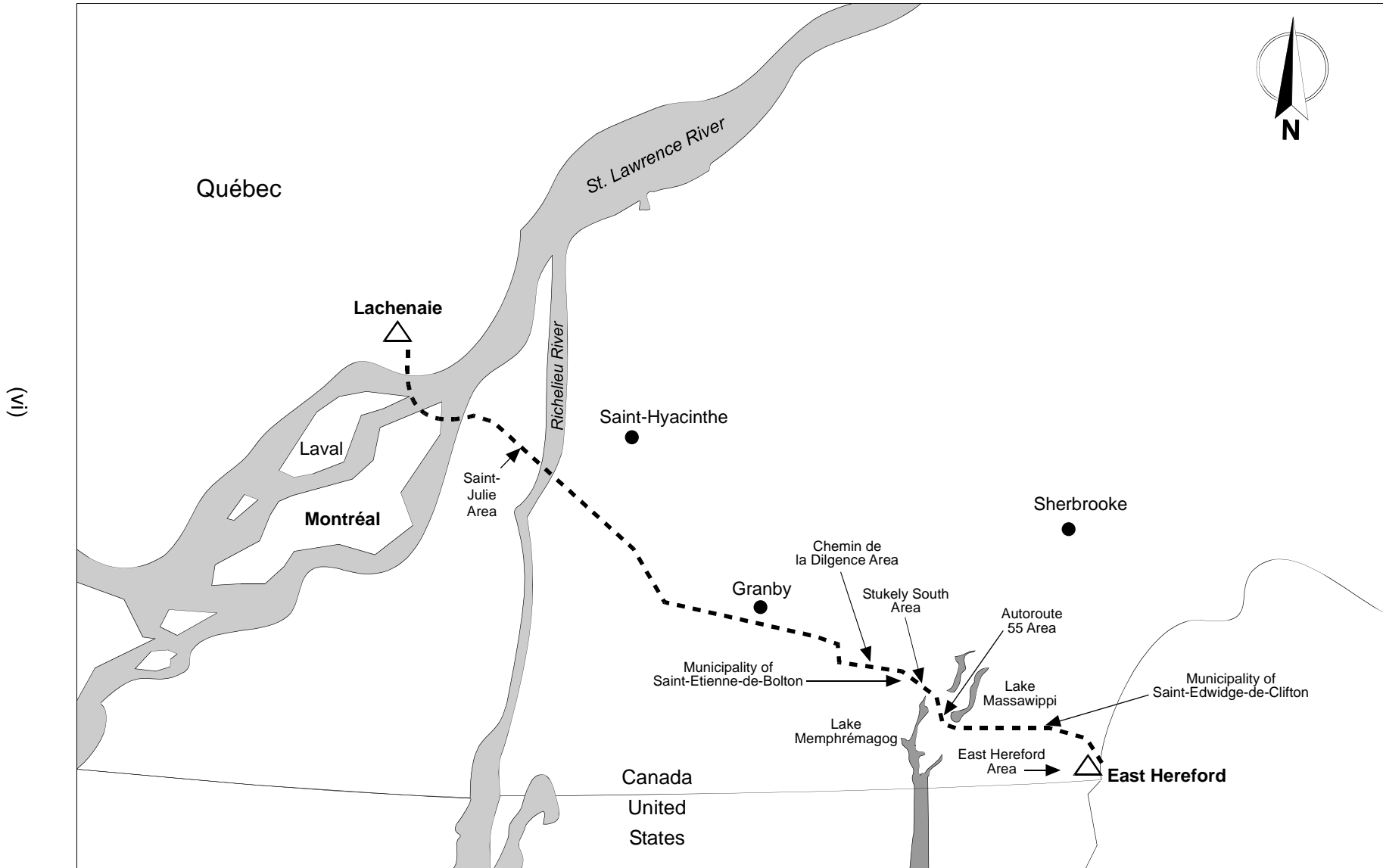
TQM PNGIS Detailed Route Hearing

Following the service of section 34 Notices by TQM, the Board received written statements of opposition concerning specific areas along the proposed detailed route of the pipeline. Accordingly, a series of oral public hearings were held from July 22 through August 3, 1998 in Magog-Orford, Québec.

Two municipalities and 16 landowners, whose lands were crossed by the proposed detailed route, made representations at the hearings. All but one of these directly affected landowners were members of the Coalition des propriétaires concernés par le gazoduc (the "Coalition"). Both the Coalition and its members presented evidence. In addition, 19 affected parties intervened in the proceedings. Finally, ten parties initially provided written statements of opposition to the detailed route, but withdrew their objections prior to the conclusion of the hearing. The details on each of the seven hearings were released in August 1998. The Board's decisions are appended.

The Hearing Order and Directions on Procedure (MH-2-98) for these detailed route hearings are provided for reference in Appendix I.

Figure 1
TQM PNGTS Extension General Route and Areas of Detailed Route Opposition



Chapter 1

Municipality of Ste-Edwidge-de-Clifton

National Energy Board



Office national de l'énergie

File: 3200-T028-2-2
10 August 1998

BY FAX (819) 565-2891

Municipality of Ste-Edwidge-de-Clifton
Mr. Roland Veilleux
Monty, Coulombe, s.e.n.c.
234, Dufferin street, suite 200
Sherbrooke (Québec)
J1H 4M2

Dear Sir:

**Re: Trans Québec & Maritimes Pipeline Inc. ("TQM")
PNGTS Extension - Hearing MH-2-98**

By letter dated 7 April 1998, TQM applied to the National Energy Board (the "Board") for approval of the Plan, Profile and Book of Reference respecting the PNGTS Extension, for which the Board issued the Certificate of Public Convenience and Necessity GC-96 on 3 April 1998.

Following the publication, on 11 April 1998, of a notice issued pursuant to section 34 of the *National Energy Board Act* (the "NEB Act"), the Municipality of Ste-Edwidge-de-Clifton (the "Municipality") filed a written statement of opposition with the Board.

In its written statement of opposition and subsequent correspondence, the Municipality maintained that it was an owner of lands proposed to be acquired pursuant to the Act, and that, as such, it was entitled to the full protection and all advantages conferred by paragraph 34(1)(a) and section 86 of the Act.

By letter dated 2 July 1998, the Board stated that it would hear representations from parties regarding the Municipality's written statement of opposition, pursuant to subsection 34(4) and section 108 of the Act, during hearing MH-2-98. Said hearing began on 22 July 1998 in Orford, Québec. Representations from parties were recorded in volume 1 of the official transcripts of the hearing.

During the course of the hearing, the Municipality indicated that it was not opposed to the detailed route proposed by TQM. Further, by letter dated 3 August 1998, TQM and the Municipality advised the Board that TQM had undertaken commitments which resolved the technical issues the Municipality had raised at the hearing. In this correspondence, the Municipality stated that it does not object to TQM proceeding with the construction of the pipeline on its lands "insofar as the Board approves it".

.../2

Considering that the Municipality does not oppose the detailed route nor the construction methods proposed by TQM, the Board, pursuant to section 36 of the Act, approves TQM's proposed detailed route, as shown in survey maps SM-1251-047 to SM-1251-049, and in plans and profiles 1251-PP-059 to 1251-PP-063.

The only outstanding issue before the Board is that of the conditions to be imposed in relation to any authorization it issues under section 108 of the Act. In this respect, the Municipality, in its representations at the hearing, submitted that it was an owner of lands proposed to be acquired pursuant to the Act, and that, as such, it was entitled to the full protection and all advantages conferred by subsection 34(1)(a) and section 86 of the Act. On the basis of this claim, the Municipality requested that the Board condition the order so as to grant it the rights referred to in section 86 of the Act. Ms. Johanne Roy supported that request in her representations.

In this case, the Board notes that the activities in dispute do not constitute acquisition of lands within the purview of section 34 and of section 85 and subsequent sections of the Act. Rather, they relate to the crossing of utilities, a matter which comes under the specific authority of section 108 and the subsequent sections of the Act.

Nevertheless, after due consideration of the evidence presented by parties, the Board finds that it is appropriate to authorize the crossing of the Municipality's public roads, in accordance with section 108 of the Act, subject to the following condition:

1. TQM shall assure the indemnification of the municipality from all liabilities, damages, claims, suits and actions arising out of the operations of the company other than liabilities, damages, claims, suits and actions resulting from gross negligence or wilful misconduct of the Municipality.

A copy of order GPL-T028-15-98 approving the above-mentioned detailed route proposed by TQM and the crossing of public roads will be sent to you shortly under separate cover.

Yours truly,

Michel L. Mantha
Secretary

c.c Mr. Robert Heider, TQM
Mr. Louis A. Leclerc, Lavery, de Billy
Ms. Johanne Roy

Chapter 2

Municipality of Saint-Étienne-de-Bolton

2.1 Background

The PNGTS Extension, a natural gas pipeline from Lachenaie to East Hereford, in the Province of Québec was the subject of the NEB public hearing GH-1-97, which was held from 17 November to 17 December 1997 in Montreal and Magog-Orford, Québec. These facilities were approved by the Board in April 1998 and Certificate of Public Convenience and Necessity GC-96 was issued.

By letter dated 7 April and 1 June 1998, Trans Québec & Maritimes Pipeline Inc. ("TQM" or the "Company") filed applications to the National Energy Board ("Board" or "NEB"). The first application, dated 7 April, was filed pursuant to section 33 of the National Energy Board Act (the "NEB Act") for approval of the Plan, Profile and Book of Reference respecting the detailed route for this pipeline. The second application, seeking leave of the Board to carry the pipeline across utilities, was filed pursuant to section 108 of the NEB Act.

The service of notices to landowners pursuant to paragraph 34(1)(a) of the NEB Act occurred between 11 April and 7 May 1998 and the last notice to be published in local newspapers, pursuant to paragraph 34(1)(b) of the NEB Act, occurred on 9 April 1998.

Subsequently, the Board received written statements of opposition concerning specific sections of the detailed route of the pipeline. Pursuant to subsection 35(1) of the NEB Act, the Board held a series of oral public hearings, beginning on 22 July 1998 in Magog-Orford, Québec.

With respect to the Municipality of St-Étienne-de-Bolton, by letter dated 2 July 1998, the Board informed the Municipality that it would hear evidence and submissions pursuant to subsection 35(1) of the NEB Act with regard to the detailed route of the pipeline and pursuant to section 108 of the NEB Act with regard to the crossing of utilities by the pipeline.

2.2 Routing Criteria

TQM stated that it took a number of factors into consideration in selecting the location of the pipeline. TQM adopted the principle of following existing rights of way where available, technically feasible and economically acceptable. TQM considered both paralleling, and joint use of existing rights of way.

Below are some of the criteria TQM applied in selecting a route:

- follow the limits of cultivated fields;
- follow existing infrastructure and utility rights of way;
- favour passage through lands of low agriculture and/or forest potential;
- avoid maple groves;
- route through marginal forest areas to avoid cultivated lands;
- minimize corridor length;
- avoid slopes to minimize erosion;

- avoid sensitive environmental areas;
- avoid high value archaeological zones;
- minimize changes to the visual milieu;
- respect municipal zoning;
- limit crossings of existing infrastructure; and
- avoid residential zones.

TQM outlined its consultation process and reviewed its general route selection criteria. The Company noted that its criteria rested on the principles of respect for property, protection of resources and environmental engineering. In addition to the criteria listed above, other criteria considered were: the pairing of compatible pipelines within a right of way; using part or all of an existing right of way; pairing rights of way; and following the edge of wooded areas, the limits of physical obstacles, power lines in wooded areas, or concession lines.

The Board's MH-2-98 Hearing Order noted that landowners and intervenors could make presentations with regard to the proposed detailed route, the potential alternative routes, if any, and the criteria which were used in determining their preferred route.

2.3 Municipality of Saint-Étienne-de-Bolton (the 'Municipality')

The Municipality opposes the detailed route proposed by TQM. The Municipality expressed a number of general concerns about potential impacts of a pipeline, including: emergency planning responsibilities and costs; compensation; trespass; aesthetics; safety zones; width of the right-of-way; bisecting lots; and property devaluation. The Municipality also raised the general issue of the potential impact of the proposed route on an artificial lake and two protected streams.

The Municipality questioned the appropriateness of opening up a new corridor in forested lands and maintained that this would disturb the tranquility of the impacted area. The Municipality also indicated that the best route would parallel the existing Gaz Métropolitain pipeline.

Intervenors

In support of the Municipality's position, Mr. François Wilhelmy questioned the decision-making process whereby the Municipalité Régionale du Conté ("MRC") of Memphrémagog decided on a new corridor and TQM's role in this process. Mr. Wilhelmy also identified concerns with the opening up of an inaccessible rural area to trespass and with the difficulties in carrying out farming and forestry operations across a pipeline.

TQM

TQM explained that it selected the route through the Municipality after consultation with both local and provincial authorities. More specifically, the MRC of Memphrémagog rejected an initial preferred route adjacent to the Gaz Métropolitain right of way on the grounds of an adverse impact on the recreational and tourism character of the area. The MRC proposed an alternative corridor in order to avoid, to the extent possible, passage through a recreational and tourism zone. TQM stated that it then chose the proposed detailed route within the MRC's corridor based on established selection criteria in order to minimize adverse impacts. TQM took the position that the Municipality opposes the proposed route solely on grounds discussed and resolved in GH-1-97, and has not explained how land in the Municipality would be affected.

Views of the Board

With regard to the detailed route of the pipeline, the Board is of the view that TQM has demonstrated that the detailed route that the Company proposed is the best possible detailed route and it was not persuaded otherwise by the evidence. The Board considers that the detailed route proposed by TQM creates a lesser impact on the recreational and tourism character of the area than the route favoured by the Municipality. The Board notes that the Municipality raised water-related issues in a general sense but did not comment further on the exact nature of these issues or the appropriateness of TQM's proposed method or timing of construction in respect of these issues.

In terms of construction, the Board notes that no evidence was submitted that would shed doubt on the efficacy of the mitigation measures to which TQM has committed.

Finally, the Board notes that the municipality made no further submissions specific to the application of TQM pursuant to section 108 of the Act; accordingly, the Board authorizes TQM to carry its pipeline across the highways of the Municipality of Saint-Étienne-de-Bolton.

Decision

The Board finds that the route proposed by TQM is the best possible detailed route for the pipeline in the case of the Municipality of Saint-Étienne-de-Bolton, and that TQM has committed to the most appropriate methods and timing of construction.

The Board authorizes TQM to carry its pipeline across the highways of the Municipality of Saint-Étienne-de-Bolton pursuant to section 108 of the NEB Act.

2.4 Disposition

The foregoing constitutes our Decision and Reasons in the Board's MH-2-98 detailed route hearings with respect to the written statement of opposition filed by the Municipality of Saint-Étienne-de-Bolton.

A. Côté-Verhaaf
Presiding Member

G. Delisle
Member

P. J. Trudel
Member

Calgary, Alberta
August 1998

Chapter 3

Sainte-Julie Area / Jean Brissette

3.1 Background

By letter dated 7 April 1998, Trans Québec & Maritimes Pipeline Inc. ("TQM" or the "Company") applied to the National Energy Board ("Board" or "NEB") pursuant to section 33 of the *National Energy Board Act* (the "NEB Act") for approval of the Plan, Profile and Book of Reference respecting the detailed route for the PNGTS Extension, a natural gas pipeline from Lachenaie to East Hereford, in the Province of Québec. These mainline facilities were the subject of the NEB public hearing GH-1-97, which was held from 17 November to 17 December 1997 in Montreal and Magog-Orford, Québec. The facilities were approved by the Board in April 1998 and Certificate of Public Convenience and Necessity GC-96 was issued.

The service of notices to landowners pursuant to paragraph 34(1)(a) of the NEB Act occurred between 11 April and 7 May 1998 and the last notice to be published in local newspapers, pursuant to paragraph 34(1)(b) of the NEB Act, occurred on 9 April 1998.

Subsequently, the Board received written statements of opposition concerning specific sections of the detailed route of the pipeline. Pursuant to subsection 35(1) of the NEB Act, the Board held a series of oral public hearings, beginning on 22 July 1998 in Magog-Orford, Québec, to consider the statements of opposition which met the requirements of the NEB Act and to hear parties that wished to make representations. Subsection 36(1) of the NEB Act states that the purpose of a detailed route hearing is "to determine the best possible detailed route of the pipeline and the most appropriate methods and timing of constructing the pipeline".

3.2 Routing Criteria

TQM outlined that it took a number of factors into consideration in selecting the location of the pipeline. TQM adopted the principle of following existing rights of way where available, technically feasible and economically acceptable. TQM considered both paralleling, and joint use of existing rights of way.

Below are some of the criteria TQM applied in selecting a route:

- follow the limits of cultivated fields;
- follow existing infrastructure and utility rights of way;
- favour passage through lands of low agriculture and/or forest potential;
- avoid maple groves;
- route through marginal forest areas to avoid cultivated lands;
- minimize corridor length;
- avoid slopes to minimize erosion;
- avoid sensitive environmental areas;
- avoid high value archaeological zones;
- minimize changes to the visual milieu;
- respect municipal zoning;

- limit crossings of existing infrastructure; and
- avoid residential zones.

TQM outlined its consultation process and reviewed its general route selection criteria. TQM noted that its criteria rested on the principles of respect for property, protection of resources and environmental engineering. In addition to the criteria listed above, other criteria considered were: the pairing of compatible pipelines within a right of way; using part or all of an existing right of way; pairing rights of way; and following the edge of wooded areas, the limits of physical obstacles, power lines in wooded areas or concession lines.

The Board's MH-2-98 Hearing Order noted that landowners and intervenors could make representations with regard to the proposed detailed route, the potential alternative routes, if any, and the criteria which were used in determining their preferred route.

3.3 Alternative Routes Proposed by Jean Brissette

Mr. Brissette owns lots 73 and 74 in the Municipality of Sainte-Julie, Registration Division of Verchères. The lands are adjacent to the north side of Autoroute 20, and contain an existing Hydro-Québec right of way. Mr. Brissette's existing facilities include a large reception hall, a parking lot, a trout lake as well as race tracks for snowmobile and 4x4 vehicles. Mr. Brissette indicated that the snowmobile race track, operational winter and summer, is oriented in the east-west direction and approximately located south of the existing building, whereas the 4x4 race track, located between the lake and route 229, hosts racing events about twice a year and consists of an approximately one metre deep trench that is dug for every race event. Mr. Brissette noted that when no race is taking place, the trench is backfilled.

Mr. Brissette stated that he has plans to expand his business by constructing bingo hall adjacent to the existing reception hall, expand his existing parking lot; expand his septic field and relocate it towards the east; build an additional lake; and relocate the existing race tracks. He submitted that his planned locations for the expanded septic field, the race tracks and the buried electric cables on his property would preclude the proposed route of the pipeline.

Mr. Brissette submitted three alternative routes. The first alternative route would confine the proposed TQM right of way along the east side of the Hydro-Québec right of way, cross under Autoroute 20 and pass through an industrial zone to connect with the proposed TQM route on the south side of the industrial zone. Mr. Brissette abandoned this route, however, when he realized that it would cause prejudice to Gesco Lussier Ltée, a trucking firm in the industrial zone.

The second alternative route would parallel the east side of the Hydro-Québec right of way to Autoroute 20 and turn west at a sharp angle. It would parallel the Autoroute for about 200 m and turn south, crossing under the highway, and follow a municipal road easement within an industrial zone to connect with the proposed TQM route on the south side of the industrial zone. Mr. Brissette also abandoned this route, however, when he learned that it was not technically feasible due to the required sharp bend in the pipe.

The third alternative route would diagonally cross lot 72, which is owned by Mr. Brissette's neighbour, Léo Savaria, cross under Autoroute 20 and follow along the right of way of a proposed municipal street. Mr. Levasseur, a land surveyor testifying on behalf of Mr. Brissette, indicated that the third

alternative is the best, since it shortens the pipeline by approximately 300 m, respects all of TQM's route selection criteria at least as well as TQM's proposed route, and takes advantage of the right of way of a proposed municipal street.

Intervenors

Ms. Marie-Josée Ferron, on behalf of Gesco Lussier Ltée., requested that, in the event that one of the alternative routes proposed by Mr. Brissette is retained, a distance of at least 100 m be maintained between the pipeline and their building in order to allow for the expansion of the facilities.

Mr. Léo Savaria, owner of lot 72, which alternative three would cross diagonally, opposed this alternative because the land is in the process of being sold and he fears that the presence of the pipeline may jeopardize the sale.

TQM

TQM explained that, in December 1997, at the request of Mr. Brissette, the Company slightly modified the original route of the pipeline on Mr. Brissette's land to move it farther away from some of the existing and projected facilities. TQM indicated that the route was also designed to minimize the adverse effects on the industrial land in the area and allow future expansion of existing facilities.

TQM submitted that all three alternative routes are not acceptable and would have the effect of having the pipeline go outside of Mr. Brissette's property. TQM explained that the first alternative route would be unacceptable because it would be located approximately 20 m from an existing industrial building, thereby precluding any expansion of this facility.

TQM submitted that the second alternative route is also unacceptable because it involves bending the pipe to an angle greater than 90 degrees, which is not feasible for technical and operational reasons. TQM also noted that it did not take into account the location of the Hydro-Québec pylons and an existing 15-meter wide right of way along the autoroute for an oil pipeline belonging to Imperial Oil.

With respect to the third alternative route, TQM indicated that, while it is technically feasible, it would diagonally cross lot 72 and would be located within the right of way of a proposed municipal street. TQM submitted that it would not normally construct a transmission pipeline along a municipal street, and that, for the above reasons, the third alternative route is not acceptable.

TQM submitted that the proposed route of the pipeline would not prevent the realization of Mr. Brissette's projects because the new facilities would be located outside of the pipeline right of way. TQM further submitted that the buried electric cables on Mr. Brissette's property would not pose a constraint, since the proposed pipeline could be constructed under the cables. Finally, TQM noted that the proposed expansion/relocation of Mr. Brissette's 4x4 race track involves agricultural lands and that the required municipal and *Commission de protection du territoire agricole du Québec* approvals had not yet been received.

TQM submitted that its proposed route is the best possible detailed route for the pipeline on the property of Mr. Brissette.

Views of the Board

The Board notes that Mr. Brissette reviewed his first and second proposals when he became aware of the impact of the first proposal on Gesco Lussier Ltée and the technical constraints of the second proposal. With respect to Mr. Brissette's third proposal, the Board is of the view that it is not free of difficulties, as the route would diagonally cross agricultural lands unnecessarily and would be located within the right of way of a future municipal street. Furthermore, the Board notes that Mr. Brissette's plans to modify and expand his facilities, as described, would not be precluded by the presence of the proposed TQM right of way on the basis of the construction methods committed to by TQM. The Board is of the view that TQM has demonstrated that the detailed route that it proposed is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mr. Brissette, and that TQM has committed to the most appropriate methods and timing of construction.

3.4 Disposition

The foregoing constitutes our Decision and Reasons in the Board's MH-2-98 detailed route hearing with respect to the written statement of opposition filed by Jean Brissette in the Sainte-Julie area.

A Côté-Verhaaf
Presiding Member

G. Delisle
Member

P. J. Trudel
Member

Calgary, Alberta
August 1998

Chapter 4

MH-2-98 - Chemin de la Diligence Area

4.1 Background

By letter dated 7 April 1998, Trans Québec & Maritimes Pipeline Inc. ("TQM") applied to the National Energy Board ("Board" or "NEB") pursuant to section 33 of the *National Energy Board Act* (the "NEB Act") for approval of the Plan, Profile and Book of Reference respecting the detailed route for the PNGIS Extension, a natural gas pipeline from Lachenaie to East Hereford, in the Province of Québec. These mainline facilities were the subject of the NEB public hearing GH-1-97, which was held from 17 November to 17 December 1997 in Montreal and Magog-Orford, Québec. The facilities were approved by the Board in April 1998 and Certificate of Public Convenience and Necessity GC-96 was issued.

The service of notices to landowners pursuant to paragraph 34(1)(a) of the NEB Act occurred between 11 April and 7 May 1998 and the last notice to be published in local newspapers, pursuant to paragraph 34(1)(b) of the NEB Act, occurred on 9 April 1998.

Subsequently, the Board received written statements of opposition concerning specific sections of the detailed route of the pipeline. Pursuant to subsection 35(1) of the NEB Act, the Board held a series of oral public hearings, beginning on 22 July 1998 in Magog-Orford, Québec, to consider the statements of opposition which met the requirements of the NEB Act and to hear parties that wished to make representations. Subsection 36(1) of the NEB Act states that the purpose of a detailed route hearing is "to determine the best possible detailed route of the pipeline and the most appropriate methods and timing of constructing the pipeline".

4.2 Routing Criteria

TQM outlined that it took a number of factors into consideration in selecting the location of the pipeline. TQM adopted the principle of following existing rights of way where available, technically feasible and economically acceptable. TQM considered both paralleling, and joint use of existing rights of way.

Below are some of the criteria TQM applied in selecting a route:

- follow the limits of cultivated fields;
- follow existing infrastructure and utility rights of way;
- favour passage through lands of low agriculture and/or forest potential;
- avoid maple groves;
- route through marginal forest areas to avoid cultivated lands;
- minimize corridor length;
- avoid slopes to minimize erosion;
- avoid sensitive environmental areas;
- avoid high value archaeological zones;
- minimize changes to the visual milieu;
- respect municipal zoning;

- limit crossings of existing infrastructure; and
- avoid residential zones.

TQM outlined its consultation process and reviewed its general route selection criteria. TQM noted that its criteria rested on the principles of respect for property, protection of resources and environmental engineering. In addition to the criteria listed above, other criteria considered were: the pairing of compatible pipelines within a right of way; using part or all of an existing right of way; pairing rights of way; and following the edge of wooded areas, the limits of physical obstacles, power lines in wooded areas or concession lines.

The Board's MH-2-98 Hearing Order noted that landowners and intervenors could make representations with regard to the proposed detailed route, the potential alternative routes, if any, and the criteria which were used in determining their preferred route.

4.3 Alternative Route Proposed by the *Coalition des propriétaires concernés par le gazoduc* (the "Coalition")

Coalition

Mr. Daniel Théorêt, environmental analyst for the Coalition, provided expert testimony on an alternative route. He stated that while the TQM analysis of its route was a good study, and more specific than that proposed by the Coalition, the analysis was biased because it relied too heavily on certain selection criteria such as paralleling existing rights of way. He explained that while the paralleling of existing rights of way is often the main criterion in northern regions, the practice in relatively highly populated areas is to consider a wide range of selection criteria.

He advocated as important considerations the use of both environmental selection criteria such as drainage, slope, length of route, forest impact and lot lines, and socio-economic selection criteria such as heritage resources, aesthetics, zoning, infrastructure crossings and residential areas.

By order of priority, the selection criteria used by the Coalition were the following:

- lessen adverse impacts on landowners;
- locate the pipeline as far from residences as possible;
- lessen the adverse effect on exploited forest and cultivated land and avoid wildlife and wooded habitats;
- avoid water crossings and fish ponds, and locate the pipeline away from the water table and flood plains of lakes and water course;
- avoid heritage and archaeological sites;
- follow lot lines and respect the efficient or expected use of the area; and
- encourage the technical feasibility of the project by locating close to rights of way without conflicting with the other criteria above.

The Coalition's preferred route starts a few km north of the junction of Highway 243 and Autoroute 10, and follows the south side of Autoroute 10 in an easterly direction, to a point south of Lake d'Argent. The Coalition's rationale for the choice was that it is shorter and would affect a fewer number of residences. Mr. Théorêt noted that the number of maple trees was considered, but insufficient data was available to draw a conclusion on this criterion. However, he stated that he

found the route along Autoroute 10 preferable because it was not on the best land and the wood lots along Chemin de la Diligence were probably of a better quality. Mr. Théorêt stated that the Coalition's route selection exercise was not undertaken to identify the best possible route but to identify the route with less impact taking into account landowners' rights. Mr. Théorêt stated that there were areas that would cause problems along the Coalition's Autoroute 10 alternative route such as a small residential area along Lake d'Argent, a cliff, a small forested area and a valuable maple grove.

The Coalition maintained that it was not advocating that everything with respect to the project analysis had to be done over again, and was therefore not challenging the GH-1-97 decision. It was simply asking for a fine tuning of the project. It also submitted that the plight of the affected landowner was the main consideration, and that the burden of proof should not be on the impacted landowner. In the Coalition's view, TQM never submitted Autoroute 10 as an option. Instead TQM adhered to a route established by Hydro-Québec in the 1940s, which is irrelevant for the 1990s. The Coalition stated that in the past, damage from the existing Gaz Métropolitain and Company, Limited Partnership ("Gaz Métropolitain") pipeline had not been recognized and the Coalition wanted to avoid this situation in the future. To do this, the Coalition maintained that the route selection criteria had to be changed to take into account the human factor, and alter the emphasis from the public convenience and necessity to the local convenience and necessity. Finally, the Coalition stated that multiple rights of way have significant adverse cumulative socio-economic effects that have not been adequately considered.

Intervenors

Mr. Alvarez and Mr. Drolet intervened in opposition to the Coalition. Both were concerned that the Coalition had not consulted people likely to be affected by the alternative route. Both had done research on the number of residences in the Coalition's alternative route area and each one maintained that the Coalition had underestimated the number of affected residences in the area. Mr. Alvarez was concerned that the Coalition was taking a "not in my backyard" approach irrespective of the consequences. Mr. Drolet recommended that a route along the median of Autoroute 10 was the best route. If this is not possible, he favoured using the existing Gaz Métropolitain and Hydro-Québec route. Mr. Drolet saw the route south of Autoroute 10 as the route of maximum adverse impact. He also requested that any TQM commitments be made conditions of any approval issued by the Board.

Mr. Blanchet, a representative of the Québec Ministry of Transport, stated that while the Ministry does not oppose a pipeline paralleling highway rights of way, it requests that the pipeline be located at least 15 to 20 m away from the edge of the highway right of way for aesthetic reasons.

TQM

TQM maintained that its proposed route in this area complies with the established selection criteria. A route adjacent to the existing Hydro-Québec and Gaz Métropolitain rights of way was chosen as it met the first criteria of twinning with existing pipeline rights of way, where possible. As well, the route was considered to have a less obvious visual impact than a new right of way would have, and it had the least overall environmental impact. Where possible, the proposed route is on the side of the existing rights of way that is furthest from residences. In most cases, the route is as much as 150 to 160 metres away from residences. Where feasible, deviations were made to protect areas with silviculture potential. TQM noted that Department of Energy of Québec advocated a route along the Gaz Métropolitain pipeline.

TQM stated that the Coalition's proposal for an alternative to the Chemin de la Diligence right of way, namely a route along the south side of Autoroute 10, was flawed because the Coalition's alternative required crossings at four interchanges, and would have an adverse impact on residential areas and maple groves. TQM maintained that its analysis demonstrated that there were fewer maple groves, forest plantations and residential areas along its route than the alternative route proposed by the Coalition. TQM stated that the Coalition's alternative route crossed two major wetlands and four significant ponds as compared to no wetlands and two small ponds for the TQM proposed detailed route. It also noted that in 1983 the Autoroute 10 alternative had been rejected as a route for the Gaz Métropolitain pipeline. In TQM's view, any modification of its proposed route must be done in the framework of the corridor approved in the GH-1-97 Reasons for Decision.

TQM was of the view that the Coalition used the criteria of avoiding private property above all else when selecting its alternative route. It questioned the validity of the Coalition's methodology for calculating the number of residences along the alternative route because it was not systematic, but based primarily on a survey conducted from a vehicle. TQM maintained that the Coalition should have taken the number of owners into account rather than the residences, and stated that the Coalition did not know how many owners there were on the alternative route. TQM also noted that the Coalition had not considered the residential zoning for the area even though the Coalition was aware of the Municipalité Régionale de Comté de Memphrémagog policy that pipelines avoid residential zones.

TQM stated that Mr. Drolet's proposal that the pipeline be constructed in the Autoroute 10 median was not feasible. It stated that there was insufficient room in the median for construction without closing off one side of the highway and any maintenance would be difficult. Moreover, the pipeline would have to be deviated at highway overpasses. TQM stated that to its knowledge, the Québec Ministry of Transport did not allow the construction of pipelines in their right of way other than for road crossings.

While TQM expressed its opposition to discussion of matters that were dealt with in the GH-1-97 proceedings, it responded in its argument to various GH-1-97 matters raised by Coalition members and intervenors. TQM stated that:

- it had guaranteed an adequate water supply for the Municipality of the Village of Stukely South;
- it had provided measures to prevent trespass, in cooperation with Hydro-Québec and Gaz Métropolitain where there are multiple rights of way;
- it had complied with the condition to test wells;
- it is implementing the agreement on the width of forest cutting within the right of way in order to reduce the environmental and socio-economic impacts;
- it has in place an appropriate and adequate public consultation process, which has resulted in over 95 per cent of the landowners signing servitude agreements, and is always willing to meet with interested parties and landowners; and
- it was diligent in assessing both the environmental and socio-economic effects of its project.

TQM summarized its case by stating that its proposed route was environmentally acceptable and was approved by local and regional governments and the Province and hence was the best possible route.

4.4 Nicole Plante and Robert Boisvert

Ms. Plante and Mr. R. Boisvert own Lot 211 in the Village of Stukely South, Township of Stukely South, Registration Division of Shefford, which the route proposed by TQM would cross. They expressed a number of concerns with the potential impacts of the proposed pipeline together with previous impacts from two existing electrical transmission lines and an existing gas pipeline right of way. They expressed several other concerns with the proposed pipeline, including: impact on vegetation and wildlife; loss of income from forestry; heritage; quality of life; impact on humans; hunting and trapping; trespass; safety; lack of emergency services; water supply and quality; property devaluation; lost of development potential; and public consultation. The position of Ms. Plante and Mr. R. Boisvert was that TQM failed to take these matters sufficiently into account in respect of their property and the Village of Stukely South. They supported the Coalition's alternative route along Autoroute 10 as the best route, based on the view that it would affect fewer people, would follow lot lines and would prevent cumulative effects from future pipelines on their property and in the Stukely South area. They stated the this alternative route would protect against damage to the water supply of the Village of Stukely South area and distance the risk zone from the Village.

TQM submitted that its proposed route meets acceptable route selection criteria, and has the least impact and reduces the amount of deforestation compared to the alternative route proposed by the Coalition. TQM stated in reply evidence, that the Company and the Municipality of the Village of Stukely South had several discussions and have established the parameters of an agreement regarding additional supply of water for the Municipality of the Village of Stukely South. The proposed agreement will assure that the water supply of the residents of Stukely South will be adequately protected.

TQM also pointed out that, regarding the problem of trespassers, at the GH-1-97 hearing, it had filed approximately seven plans of ways and means to control the problem

Views of the Board

The Coalition's primary selection criterion was to cross as few residential areas as possible and keep as far away from houses as possible. In that respect, the Board is of the view that the evidence did not support the Coalition's position that its alternative would better avoid residences and residential areas than the route proposed by TQM.

The Board also considers that the evidence did not support Mrs. Plante's and Mr. Boisvert's position that the Coalition's alternative would impact fewer people and have a lesser environmental impact than the route proposed by TQM.

With regard to their concerns raised in relation to the water supply of the Municipality of the Village of Stukely South, the Board is satisfied that TQM's commitments on water supply to the Municipality of the Village of Stukely South adequately address these concerns.

The Board finds that there is some merit in the view that there could be cumulative effects should additional pipelines or other infrastructure be built on or adjacent to the proposed TQM right of way. However, the Board will not speculate on the nature,

scale or significance of possible impacts of future projects which have not yet been proposed.

Finally, although it recognizes that following existing utilities corridor may have some incremental effect on the pre-existing inconveniences and problems that Ms. Plante and Mr. Boisvert have identified, the Board is of the view that the overall impacts of creating a new utility corridor south of Autoroute 10 would be greater than those possible impacts of enlarging the existing corridor.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the Company is the best possible detailed route for the pipeline and the Board was not persuaded otherwise by the evidence of the parties.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mrs. Nicole Plante and Mr. Robert Boisvert, and that TQM has committed to the most appropriate methods and timing of construction.

4.5 Georges-Émile Boisvert

Mr. G-É Boisvert, owner of Lots 214 and 215 in the Village of Stukely South, Township of Stukely South, Registration Division of Shefford, raises cattle, has a maple syrup operation and harvests wood from his property, which the proposed TQM detailed route would cross. He was concerned with the impact of the pipeline for a number of reasons, including: his livelihood; impacts on the water supply of the Village of Stukely South; property devaluation; loss of a stand of cedar; adverse visual effects; and trespass. He preferred the route proposed by the Coalition to the one proposed by TQM because it would have less impact on the landowners in his area and would protect the water supply of the Village of Stukely South

In cross-examination, Mr. G-É Boisvert agreed that problems with the water supply for Stukely South pre-dated 1983, when the first pipeline was constructed in the area. He stated that there was a water problem in 1976, which was that the water supply escaped into a brook and it took some time to discover the problem

TQM maintained that the route along the existing rights of way has the least impact and reduces the amount of deforestation. TQM stated that it had established the parameters of an agreement with the Municipality of the Village of Stukely South to provide a supplementary water source to the Municipality to ensure an appropriate quality and quantity of water.

Views of the Board

The Coalition's primary selection criterion was to cross as few residential areas as possible and keep as far away from houses as possible. In that respect, the Board is of the view that the evidence did not support the Coalition's position that its alternative would better avoid residences and residential areas than the route proposed by TQM

The Board also considers that the evidence did not support Mr. Boisvert's position that the Coalition's alternative would impact fewer people than the route proposed by TQM

Regarding Mr. Boisvert's concerns raised in relation to the water supply of the Municipality of the Village of Stukely South, the Board is satisfied that TQM's commitments on water supply to the Municipality of the Village of Stukely South adequately address these concerns.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the Company is the best possible detailed route for the pipeline and the Board was not persuaded otherwise by the evidence of the parties.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mr. G.-É. Boisvert, and that TQM has committed to the most appropriate methods and timing of construction.

4.6 Hèle and Jean-Marc Saint-Hilaire

Dr. Saint-Hilaire is the owner of Lot 170 in the Village of Stukely South, Township of Stukely South, Registration Division of Shefford, which the proposed TQM route would cross. His main concern is the potential disappearance of a pond on his property whose depth, he testified, decreased significantly following the construction of a gas pipeline in 1983. He maintained that the construction method used by Gaz Métropolitain resulted in a barrier to water flow to this pond and saw the construction of a second pipeline as having the potential to create an additional barrier which would further reduce the water supply to the pond.

Other concerns with the project were: trespassers; impact on employment in the tourism industry; impact on the recreation and tourism character of the region; impact on the water supply of the Village of Stukely South; and the visual presence of the right of way. He also claimed that no alternative to the route along the Chemin de la Diligence had been considered by TQM. Finally, in discussing the merits of the Coalition's alternative route along the south side of Autoroute 10, Dr. Saint-Hilaire maintained that it is the shortest route, and would affect fewer families and have less environmental, agricultural, landscape and human effects than the TQM route.

Mr. Théorêt, the expert witness for the Coalition, provided an assessment of the impact of the existing Hydro-Québec and Gaz Métropolitain rights of way on Dr. Saint-Hilaire's pond. Mr. Théorêt's methodology involved a comparison of aerial photographs from 1979 and 1995 and site visits. A brook identified in this area in 1979 was not present in 1995. Upstream of this area, to the north of the existing rights of way, a zone of poor drainage was identified during the site visits. While Mr. Théorêt indicated that it was possible that reforestation between 1979 and 1995 could have had an impact on the amount of surface runoff available, he concluded that the construction of the pipeline in 1983 was likely responsible for part of the change in water flows, and that without specific mitigation to ensure effective surface drainage, the aging and disappearance of the pond would be accelerated with a second pipeline.

TQM indicated that it appeared that there was no obstacle for surface water drainage on the property of Dr. Saint-Hilaire. TQM recommended surveying the land in the vicinity of the rights of way and the pond in order to verify the state of the water table and having a hydrogeologist examine the site. TQM submitted that after these detailed surveys, a number of measures consisting of constructing a water way through the rights of way, installing an underground drain, or a combination thereof may be considered in order to supply water for Dr. Saint-Hilaire's pond. In argument, TQM committed to carry-out a hydrogeological study and to develop and implement measures to preserve and enhance water flow to the pond.

TQM maintained that its detailed route along the existing rights of way meets acceptable route selection criteria, is the route of least impact, and reduces the amount of deforestation.

Views of the Board

The Coalition's primary selection criterion was to cross as few residential areas as possible and keep as far away from houses as possible. In that respect, the Board is of the view that the evidence did not support the Coalition's position that its alternative would better avoid residences and residential areas than the route proposed by TQM.

The Board also considers that the evidence did not support Dr. Saint-Hilaire's position that the Coalition's alternative route would affect fewer families, and have less environmental, agricultural, landscape and human effects than the route proposed by TQM.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the Company is the best possible detailed route for the pipeline and the Board was not persuaded otherwise by the evidence of the parties.

However, the Board considers the method of construction as an issue in this case. It appears to the Board that the previous pipeline could have played some part in the reduced flow of water to the pond. To the extent that the water supply to the pond could be affected further by the installation of the TQM pipeline, a construction method must be developed to preserve the continued water flow to the pond. The Board will condition TQM to carry out a hydrogeological study and based on the hydrogeological study, to develop viable measures to avoid any blockage of water flow.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case Dr. Saint-Hilaire. It notes that it is possible that, without due care and attention, the water supply to the pond could be adversely affected. To ensure that TQM follows the most appropriate methods and timing of construction, the Board will impose a condition requiring TQM to, prior to construction, survey the landowner's property in the vicinity of the existing and proposed rights of way, verify the subsurface conditions, conduct a hydrogeological study and take appropriate measures to maintain the continued water supply to the pond in order to preserve it in its present state.

4.7 **Gérald Brodeur and Thérèse Maher**

Ms. Maher and Mr. Brodeur are the owners of Lot 170 in the Village of Stukely South, Township of Stukely South, Registration Division of Shefford, which the proposed TQM detailed route would cross. Mr. Brodeur and Ms. Maher operate a Bed and Breakfast business on the property. They raised issues related to trespass, aesthetic effects, water problems, development restrictions and safety. They also raised the issue of the appropriateness of the method of construction relating to the potential destruction of a pond and nearby mature trees. The pond and trees are part of the landscaping for the bed and breakfast building. Because of the perceived danger of having a pipeline servitude within 22 metres of the balcony of their residence, Ms. Maher and Mr. Brodeur insisted that should the project proceed as proposed, TQM should be required to expropriate their whole property. Mr. Brodeur maintained that the alternative route along Autoroute 10 was the best possible route because, according to his survey of both routes, there are fewer residences, fewer maple groves and more land without access.

Mr. Drolet, an intervenor, expressed concern that Mr. Brodeur's survey did not take into account commercial properties.

TQM stated that the route along the existing rights of way is best as it meets acceptable route selection criteria, is the route with less impact and requires less deforestation. The Company questioned the reliability of Mr. Brodeur's survey in that it was essentially done from the autoroute. In response to a proposed condition from the Board to consider a directional drilling method in order to reduce impacts on the pond and the aesthetics of the bed and breakfast operation, TQM stated that this method would not have the least environmental impact. The Company's reasoning is that the directional drilling operation would require two 25x30 metre pads and add work areas over and above what would be required with a conventional approach. The Company maintained that open trench construction and reconstruction of the pond constitutes a lesser impact approach. TQM indicated that, for a distance of approximately 30 metres into the forest behind Mr. Brodeur's property, it would limit the cutting of trees to a width of 10 metres instead of the standard 18 metres. TQM submitted that this would help maintain a good tree screen in the immediate vicinity of the property. TQM further indicated that the pond would be reconstructed, and that all of the affected area would be restored.

Views of the Board

The Coalition's primary selection criterion was to cross as few residential areas as possible and keep as far away from houses as possible. In that respect, the Board is of the view that the evidence did not support the Coalition's position that its alternative would better avoid residences and residential areas than the route proposed by TQM.

The Board also considers that the evidence did not support Ms. Maher's and Mr. Brodeur's position that the Coalition's alternative route has fewer residences and would have lesser environmental impacts than the route proposed by TQM.

One matter that had arisen from a site visit to the property by the Board was the need for a method of construction that would minimize the disturbance of a pond and preserve, to the extent possible, the aesthetic qualities of Mr. Brodeur's property. The Board agrees that a conventional construction method would offer this protection and would have the least environmental impact in this case when compared to a directional

drilling operation. However, the Board sees a need to monitor this construction closely and will condition TQM to file an as-built report to the Board on completion of the work, with special attention to the tree screen and the reconstruction of the pond. The Board will also require reports on the condition of the site for the next two years after construction.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the Company is the best possible detailed route for the pipeline and the Board was not persuaded otherwise by the evidence of the parties.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case Mr. G. Brodeur and Ms. T. Maher. However, due care and attention are needed to preserve the aesthetic qualities of the bed and breakfast operation. To ensure that TQM undertakes the most appropriate methods of construction as per its commitment, the Board will condition TQM to file a report on the pond and its vicinity, on completion of construction and restoration activities on the site, and thereafter every year for the following two years.

4.8 Mrs. Christina Davidson Richards and Mr. Gary Richards (also representing Dr. N. Moamaï and Family, intervenors and neighbours)

Mrs. Richards owns Lot 165 in the Village of Stukely South, Township of Stukely South, Registration Division of Shefford, which the proposed TQM detailed route would cross. The Richards raised a number of issues including: environmental and ecological effects; protection of forests and sugar bush; safety; water supply and quality; wildlife habitat; blasting; heritage preservation; public health; emergency measures; trespassers; liability; property devaluation; cumulative effects; and mistrust that TQM would meet its commitments. Mr. Richards specifically stated that they opposed the choice of the general route along the Chemin de la Diligence and supported the Coalition's alternative route along the south side of Autoroute 10, which would preferably be on land in public ownership. Their view is that this route is the least harmful in the area and would affect fewer privately owned lands and give relief to landowners already affected by multiple rights of way. It would achieve their principal goal of providing for wildlife.

During the hearing, Mr. Richards also spoke on behalf of Dr. N. Moamaï and family (Lot 177) in the Village of Stukely South, Township of Stukely South, Registration Division of Shefford, who own property which the TQM proposed detailed route would cross. They are neighbours with intervenor status. The concerns of these intervenors are essentially the same as those of Mr. and Mrs. Richards. Mr. Richards stated that Dr. and Mrs. Moamaï are concerned for one of their ponds which is directly in the way of the proposed route. He went on to say that TQM had promised them another pond to replace it.

Dr. Tremblay, an intervenor, expressed a concern with the visual effects of the TQM project on the landscape, and viewed the right of way as a scar on the landscape. Dr. Tremblay stated that there would be less damage by opening up a second corridor and the risks would be shared.

TQM stated that its proposed detailed route is the best possible route because it meets acceptable route selection criteria, has less overall impact and requires less deforestation. TQM questioned Mr. Richards on his understanding of the undertaking of TQM with respect to clearing only 18 m of the 23 m right of way except in four circumstances. Mr. Richards replied that he would not acknowledge this. He also confirmed that he was opposed to the pipeline from the outset.

Views of the Board

The Coalition's primary selection criterion was to cross as few residential areas as possible and keep as far away from houses as possible. In that respect, the Board is of the view that the evidence did not support the Coalition's position that its alternative would better avoid residences and residential areas than the route proposed by TQM.

The Board also considers that the evidence did not support Mr. and Mrs. Richards' position that the Coalition's alternative route would affect fewer parties and cause less environmental damage than the route proposed by TQM. As well, the Board was not persuaded that following the Autoroute 10 right of way would have a lesser visual impact than widening the Hydro-Québec and Gaz Métropolitain rights of way.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the Company is the best possible detailed route for the pipeline and the Board was not persuaded otherwise by the evidence of the parties.

Decision

The Board finds that the detailed route proposed by TQM route is the best possible detailed route for the pipeline in the case of Mr. and Mrs. Richards and the intervenors represented by Mr. Richards, and that TQM has committed to the most appropriate methods and timing of construction.

4.9 Eileen Martin & Harlan Martin

Ms. Martin and Mr. Martin are the owners of Lot 160 in the Village of Stukely South, Township of Stukely South, Registration Division of Shefford, which the proposed TQM detailed route would cross. Mr. Gary Richards represented Mr. and Ms. Martin at the hearing. He stated that Mr. and Ms. Martin shared common concerns with their neighbours. These concerns included: environmental and ecological effects; protection of forests and sugar bush; safety; water supply and quality; heritage preservation; public health; trespass; liability; property value; cumulative effects; and mistrust that TQM would meet its commitments. In addition to these concerns Mr. and Ms. Martin have a spring in the proposed right of way that supplies water to their cattle barn, and are concerned that the water supply could be adversely affected. With respect to the best possible route, Mr. and Ms. Martin opposed TQM's proposed route along the Chemin de la Diligence and supported a pipeline along the south side of Autoroute 10, which would preferably be on land in public ownership. Their view was

that this route is the least harmful in the area and would affect fewer parcels of privately owned land and give relief to landowners already affected by multiple rights of way.

TQM stated that its proposed route is the best possible route because it meets acceptable route selection criteria, has least overall impact and requires less deforestation. With respect to Mr. and Ms. Martin's spring, TQM stated that the spring had been identified as a matter for special attention at the time of construction and standard measures would be taken to avoid or mitigate any problems.

Views of the Board

The Coalition's primary selection criterion was to cross as few residential areas as possible and keep as far away from houses as possible. In that respect, the Board is of the view that the evidence did not support the Coalition's position that its alternative would better avoid residences and residential areas than the route proposed by TQM.

The Board also considers that the evidence did not support Ms. Martin's and Mr. Martin's position that the Coalition's alternative route along Autoroute 10 would cause less environmental damage and affect fewer parties than the route proposed by TQM.

The Board notes Mr. Martin's and Ms. Martin's concern that their spring could be adversely affected by construction. The Board also notes that TQM recognizes the sensitivity of the spring and has undertaken to pay special attention to it during construction.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the Company is the best possible detailed route for the pipeline and the Board was not persuaded otherwise by the evidence of the parties.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mr. and Ms. Martin. The Board also finds that TQM has shown commitment to follow the most appropriate methods and timing of construction in that the issue of the spring is identified for special attention.

4.10 Disposition

The foregoing constitutes our Decisions and Reasons regarding the Board's MH-2-98 detailed route hearings with respect to the written statements of opposition filed for the Chemin de la Diligence area.

A Côté-Verhaaf
Presiding Member

G. Delisle
Member

P. J. Trudel
Member

Calgary, Alberta
August 1998

Chapter 5

Stukely South Area

5.1 Background

By letter dated 7 April 1998, Trans Québec & Maritimes Pipeline Inc. ("TQM" or the "Company") applied to the National Energy Board ("NEB") pursuant to section 33 of the *National Energy Board Act* ("NEB Act") for approval of the Plan, Profile and Book of Reference respecting the detailed route for the PNGIS Extension, a natural gas pipeline from Lachenaie to East Hereford, in the Province of Québec. These mainline facilities were the subject of the NEB public hearing GH-1-97, which was held from 17 November to 17 December 1997 in Montreal and Magog-Orford, Québec. The facilities were approved by the Board in April 1998 and Certificate of Public Convenience and Necessity GC-96 was issued.

The service of notices to landowners pursuant to paragraph 34(1)(a) of the NEB Act occurred between 11 April and 7 May 1998 and the last notice to be published in local newspapers, pursuant to paragraph 34(1)(b) of the NEB Act, occurred on 9 April 1998.

Subsequently, the Board received written statements of opposition concerning specific sections of the detailed route of the pipeline. Pursuant to subsection 35(1) of the NEB Act, the Board held a series of oral public hearings, beginning on 22 July 1998 in Magog-Orford, Québec, to consider the statements of opposition which met the requirements of the NEB Act and to hear parties that wished to make representations. Subsection 36(1) of the NEB Act states that the purpose of a detailed route hearing is "to determine the best possible detailed route of the pipeline and the most appropriate methods and timing of constructing the pipeline".

5.2 Routing Criteria

TQM outlined that it took a number of factors into consideration in selecting the location of the pipeline. TQM adopted the principle of following existing rights of way where available, technically feasible and economically acceptable. TQM considered both paralleling, and joint use of existing rights of way.

Below are some of the criteria TQM applied in selecting a route:

- follow the limits of cultivated fields;
- follow existing infrastructure and utility rights of way;
- favour passage through lands of low agriculture and/or forest potential;
- avoid maple groves;
- route through marginal forest areas to avoid cultivated lands;
- minimize corridor length;
- avoid slopes to minimize erosion;
- avoid sensitive environmental areas;
- avoid high value archaeological zones;
- minimize changes to the visual milieu;
- respect municipal zoning;

- limit crossings of existing infrastructure; and
- avoid residential zones.

TQM outlined its consultation process and reviewed its general route selection criteria. TQM noted that its criteria rested on the principles of respect for property, protection of resources and environmental engineering. In addition to the criteria listed above, other criteria considered were: the pairing of compatible pipelines within a right of way; using part or all of an existing right of way; pairing rights of way; and following the edge of wooded areas, the limits of physical obstacles, power lines in wooded areas or concession lines.

The Board's MH-2-98 Hearing Order noted that landowners and intervenors could make representations with regard to the proposed detailed route, the potential alternative routes, if any, and the criteria which were used in determining their preferred route.

5.3 Alternative Route Proposed by the *Coalition des propriétaires concernés par le gazoduc* (the "Coalition")

Coalition

D. Théorêt, environmental analyst retained by the Coalition, provided expert testimony for its alternative routes. He stated that while the TQM's route analysis was a good study, and more specific than that proposed by the Coalition, the analysis was biased because it relied too heavily on certain selection criteria, such as paralleling existing rights of way. He explained that while the paralleling of existing rights of way is often the main criterion in northern areas, the practice in urban areas is to consider a wide range of selection criteria.

He advocated as important considerations the use of both environmental selection criteria such as drainage, slope, length of route, forest impact and lot lines, and socio-economic selection criteria such as heritage resources, aesthetics, zoning, infrastructure crossings and residential areas.

By order of priority, the selection criteria used by the Coalition were the following:

- lessen adverse impacts on landowners;
- locate the pipeline as far from residences as possible;
- lessen the adverse effect on exploited forest and cultivated land and avoid wildlife and wooded habitats;
- avoid water crossings and fish ponds, and locate the pipeline away from the water table and flood plains of lakes and water courses;
- avoid heritage and archaeological sites;
- follow lot lines and respect the efficient or expected use of the area; and
- encourage the technical feasibility of the project by locating close to rights of way without conflicting with the other criteria above.

The Coalition presented two alternatives in the Stukely South sector. One consisted of a route immediately south of the Autoroute 10 right of way and an adjacent residential development that backs onto the Autoroute 10 right of way. This alternative transects an area of steep slopes and a cliff in the eastern portion of the route. The Coalition admitted that the main weakness of this route is that there is little space in the corridor and that ingenuity and added costs would be required to avoid residences

and to build the pipeline on the cliff face. The second alternative is approximately one kilometre further to the south. It avoids the housing developments along Autoroute 10 but transects rugged terrain in the eastern portion of the route.

The Coalition considers its alternatives superior to TQMs for a number of reasons, namely that its routes: would avoid the vicinity of Rang Du Rocher; would avoid cutting in plantations; would impact fewer residences and water sources; would avoid altering water courses, small lakes and ponds; would reduce the impact on a cattle farm; and would pose fewer constraints for the approach to the Missisquoi River than with the proposed TQM crossing. The Coalition noted that its alternatives would not create additional visual impacts to those currently existing along Autoroute 10. The Coalition recognized that the impacts of its alternatives, such as the visual aspect, will not be negligible but maintained that they are less intrusive than with the TQM route.

Intervenors

The Association pour la protection de l'environnement du Lac O'Malley intervened in support of the route along Autoroute 10. APELO also proposed an alternative route that skirted the Lake O'Malley residential area on the southwest and southeast sides. Its main concerns with the TQM route are with potential safety, noise and visual effects, and the impact of blasting on nearby residences.

The Comité de la vigilance des citoyens de la Vallée de la Missisquoi and the Société d'embellissement du Village de Eastman et de ses environs principal concerns are the potential erosion and visual impacts of the TQM pipeline on the west side of the Missisquoi River. They are also concerned with the recreation and tourism aspects relative to future economic development. CVCVM and SEVE favour the Autoroute 10 alternative because they see it as having less of a visual impact on the landscape.

Mr. Blanchet, a representative of the Québec Ministry of Transport, stated that while the Ministry does not oppose a pipeline paralleling highway rights of way, it requests that a pipeline be located at least 15 to 20 m away from the edge of the highway for aesthetic reasons.

TQM

In reply, TQM maintained that it had selected the best possible route within a corridor proposed by the Municipalité Régionale de Comté of Memphrémagog to avoid for the most part the recreational and tourism zone of the MRC. The Company stated that its route conforms with the MRC's criteria of a least impact route. TQM disagreed with the Coalition's contention that its route would result in water problems or affect sensitive vegetation and wildlife, based on its plans to avoid or mitigate these kinds of potential impacts.

With respect to the Coalition route along Autoroute 10 in the Stukely South area, TQM pointed to the route's adverse impact on both residences and planned residential development, its disregard of the MRC's requirement to avoid impacts to the Mount Orford area, and the difficult terrain encountered. TQM's position is that the proposal to build the pipeline along a cliff is not feasible.

With respect to the APELO intervention, TQM said that the issues being raised were largely matters that APELO had raised at the GH-1-97 hearing. TQM stated that, according to its studies, there would be no adverse noise effects after clearing the right of way on the Lake O'Malley community,

and that vegetation could be planted around surface facilities to offset any negative visual effects. TQM also explained that emergency response measures and blasting procedures will be in place to avoid or mitigate any adverse effects.

TQM rejected the APELO alternative route proposals as unworkable and explained that a route adjacent to the north side of Autoroute 10 was not feasible because it would mean placing the pipeline along a river. One leg of the second alternative route around the community is on a hillside, and this would require creating a large level area, which would result in a significant adverse environmental impact. TQM noted that the right of way adjacent to the south side of the Autoroute had been cleared and any alternative would have an adverse cumulative effect.

With respect to the SEVE and CVCVM concerns, TQM described measures that would be applied to prevent erosion and to revegetate the Missisquoi River valley slope.

5.4 Donald Patriquin

Mr. Patriquin owns Lots 691 and 692 and part of Lot 694 in the Municipality of Saint-Étienne-de-Bolton, Township of Brome, Registration Division of Brome which is crossed by the detailed route proposed by TQM. He raised a number of concerns about the proposed route through his property, including: lack of information and consultation; impairment of life style; adverse heritage effects; property devaluation; future multiple pipelines; trespass and liability; water supply; herbicide use; and equipment maintenance. He noted that the route crossed the middle of his property and did not follow lot lines. He was concerned that the route crossed logging roads, potentially affecting the passage of forestry equipment. With respect to the best route, Mr. Patriquin stated that he favours the Coalition's route along Autoroute 10.

TQM stated that the Stukely South alternative was selected to avoid the MRC's recreational and tourism zone for the most part. The Company also stated that the route takes into account cultivated land and skirts forests, where possible. TQM maintained that Mr. Patriquin was duly notified of the proposed pipeline, and was made aware of and had an opportunity to participate in public meetings and the GH-1-97 proceedings. TQM maintained that the point of crossing on Mr. Patriquin's lands was established to avoid a maple sugar operation and to follow cultivated lands north of the Patriquin property and that the crossing was in an area where trees had been harvested. TQM noted that when asked if he would prefer a route at the end of his lots, Mr. Patriquin said that he could not respond because he must be concerned with the implications for both his neighbours and himself, and he does not know what these might be. TQM explained its policy on crossings for forestry equipment, which is to provide required reinforced crossings at a landowner's request.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support the Coalition's position that the alternative routes it proposed along Autoroute 10 would impact fewer residences and

water sources, and among other things would have a lesser visual impact than the route proposed by TQM

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

The Board notes Mr. Patriquin's concern regarding the need for appropriate pipeline crossings for forestry equipment and TQM's assurances that these would be provided following consultation with Mr. Patriquin.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mr. Donald Patriquin, and that TQM has committed to the most appropriate methods and timing of construction.

5.5 François Wilhelmy

Mr. Wilhelmy owns part of Lot 694 and Lot 695 in the Municipality of Saint-Étienne-de-Bolton, Township of Brome, Registration Division of Brome which is crossed by the detailed route proposed by TQM route. His concerns included: forest impacts; the mid-lot crossing of his lots which results in fragmentation; the consultation process; the public interest; and the lack of analysis of the route. In particular, he stressed the need to assess the damage to humans from the project, taking into account effects on individuals. He preferred a route along the south side of Autoroute 10 because it would not cut up land into pieces and place an obstacle in the middle of properties.

TQM stated that the Stukely South alternative was selected to avoid the recreational and tourism zone for the most part at the request of the regional and provincial governments. The Company also stated that the route takes into account cultivated land and skirts forests, where possible. TQM noted that the right of way would require the removal of young oak trees in one area, but that this would be done to save a stand of more mature trees, and that the cutting on the right of way in the oak plantation would be limited to 15 metres. TQM maintained that Mr. Wilhelmy was duly notified of the proposed pipeline, and was made aware of and had an opportunity to participate in public meetings and the GH-1-97 proceedings.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support Mr. Wilhelmy's position that the alternative routes proposed by the Coalition along Autoroute 10 would impact fewer residences and water sources, and among other things would have a lesser visual impact than the route proposed by TQM

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mr. François Wilhelmy, and that TQM has committed to the most appropriate method and timing of construction.

5.6 Suzanne Badeaux and Karl Donolo

Mrs. Badeaux and Mr. Donolo own property in the Municipality of Saint-Étienne-de-Bolton, which is within the 30 metre zone of the proposed TQM route. They were concerned with a number of issues, including: the impact of a water supply for cattle; the impact of construction on their cattle; heightened opportunities for trespass; and safety. Mrs. Badeaux explained that her main concern is with the effects of the project on their Highland cattle operation. She stated that the water supply for the cow-calf operation is from a pond that is within the 30 metre zone and is concerned that the project would reduce the water supply from the pond, which under dry weather conditions cannot now supply the herd's needs. She is also concerned with the effects of construction noise and blasting on the cattle. To avoid these consequences, they prefer a route along Autoroute 10.

Mr. Théorêt provided an assessment of the possible impact of the proposed TQM pipeline on the pond. His evidence was that the construction of the pipeline, which would cross a feeder brook some 25 m upstream of the pond, would temporarily lower the quality of water due to sedimentation. It was also noted that fluids could also leak from construction equipment, and harm the water quality. Moreover, once in place, the pipeline might prevent or divert water flow, and it could corrode and result in water quantity and quality problems. Mr. Théorêt was also concerned with the effects of hydrostatic testing. He maintained that the risk of problems was high even after taking mitigative measures into account, and that the pipeline route should be moved to minimize any risk.

TQM maintained that its route selection criteria as outlined for its proposed detailed route were acceptable. The Company stated that project-related environmental impacts had been dealt with in the GH-1-97 hearing and should not be considerations in this hearing. TQM noted that issues such as trespass would not be significant problems when mitigative measures are applied.

TQM stated that its construction methods would control siltation and the proposed methods of water crossing were examined by experts and approved by the Quebec Ministry of the Environment and Wildlife and the Department of Fisheries and Oceans. TQM agreed that leaks of hydrocarbons from construction vehicles are possible but that absorbent material is available on site to pick up any spilled fluids. However, the Company sees leaks as unlikely given that all equipment is inspected by a specialist when it is first brought on site and, thereafter, equipment is checked daily by a mechanic. TQM noted that in the event of any project-related problem with the quality or quantity of water, it is committed to provide a replacement water supply.

With respect to an adverse impact on cattle, TQM maintained that, while cattle are curious and would approach the site, in its experience they are not adversely impacted by construction activities. In order

to prevent any harm to cattle, TQMs proposed to follow its policy of installing fences along the right of way during construction.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support Mrs. Badeaux's and Mr. Donolo's position that the alternative routes proposed by the Coalition along Autoroute 10 would impact fewer residences and water sources, and among other things would have a lesser visual impact than the route proposed by TQM.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

The Board is of the opinion that the general issues raised by Mrs. Badeaux and Mr. Donolo concerning the appropriateness of TQMs proposed methods of construction are adequately addressed by TQMs proposed mitigation measures.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mrs. Suzanne Badeaux and Mr. Karl Donolo, and that TQM has committed to the most appropriate methods and timing of construction.

5.7 Donolo Developments Inc.

Donolo Developments Inc. owns Lot 936 in the Municipality of Saint-Étienne-de-Bolton, Township of Brome, Registration Division of Brome which is crossed by the proposed TQM route. DDI also owns Lot 935 adjacent and to the north of Lot 936. Mr. Donolo, the President of DDI, stated it has future plans for five or six residences on its two lots. He considers that the right of way would prevent the building of one, two or three of these residences depending on the location of the 30 metre zone. Mr. Donolo sees the project as resulting in his land being put into the public domain due to the cumulative effect of additional pipelines or other utilities being built along the initial corridor. He stated, however, that he was willing to accept a TQM route across the northern part of the DDI property.

Mr. Donolo complained about TQMs consultation process and that there had been errors in both surveying and the Right of Access documents, and was concerned with the potential for problems when a construction project is on a fast track.

TQM maintained that the consultation process was appropriate because the Board process ensures that everyone has the right and opportunity to be heard and that all affected parties, including DDI, were served with the required documents. TQM established that Mr. Donolo had attended a public meeting on the project. As well, TQM maintained that its route was the best approach to a crossing of the Missisquoi River.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support DDI's evidence or position that the alternative routes proposed by the Coalition along Autoroute 10 would impact fewer residences and water sources, and among other things would have a lesser visual impact than the route proposed by TQM.

With respect to the issue of the possibility of additional facilities and utilities on DDI land, the Board notes that the Board's approval would be given for a single pipeline. There is no evidence that other utilities are or will be planned within or along the proposed TQM right of way.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

The Board notes Mr. Donolo's concerns with respect to the future potential development of DDI's land. However, the Board is of the view that the evidence did not support DDI's position that TQM's proposed route would preclude development on its lands or that a suggested alternative route elsewhere on his property would be equal or better than the proposed TQM route.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Donolo Developments Inc., and that TQM has committed to the most appropriate methods and timing of construction.

5.8 2770849 Canada Inc.

2770849 Canada Inc. owns vacant residential Lot 1283-5 in the Municipality of Eastman, Township of Bolton, Registration Division of Brome, which is crossed by the detailed route proposed by TQM route. Mr. Michael Moliner representing both 2770849 Canada Inc., which he owns, and Ms. L. Driver, his wife, who owns the adjacent property to the north, maintained that the proposed TQM pipeline posed a threat to his family's way of life, and should not cross a residential area. More specifically his concerns included: the consultation process; pipeline safety; water supply; property

devaluation; restriction on future residential development; trespass; and vegetation and wildlife destruction and, in particular, trees which screen the property from a neighbour on the south side.

Mr. Moliner opposes the TQM route through his property on the basis of the above concerns and the fact that it does not follow any existing right of way. The intention of Mr. Moliner is to leave the 2770849 Canada Inc. property in an undeveloped state but, in the future, to incorporate it with his wife's adjoining lot. He proposed a route which follows the south side of Autoroute 10 as being more acceptable to the natural wildlife habitat and the people of the area, and as being in compliance with the recommendations found in the BAPE report.

TQM maintained that its selection criteria as outlined for the proposed detailed route were acceptable. In this instance, TQM gave specific attention to the criteria agreed to with representatives of the MRC of Memphrémagog's to follow municipal boundaries. TQM also stated that project-related environmental impacts had been dealt with in the GH-1-97 hearings and should not be considerations in this hearing. The Company noted that issues such as trespass would not be a significant problem when mitigative measures are applied. TQM maintained that the consultation process was appropriate because the Board process ensures that everyone has the right and opportunity to be heard and that all affected parties were served with the required documents and had the opportunity to discuss all aspects of the proposed project with TQM.

TQM addressed Mr. Moliner's concerns about use of explosives by stating there would be pre- and post-blasting surveys and blasting would be done using controlled charges to prevent structural damage to nearby residences and well reservoirs. The Company stated it was responsible to guarantee an alternate water supply if an existing well is damaged during construction. TQM also noted that it would limit the amount of forest clearing to reduce the removal of the vegetative screen between the 2770849 Canada Inc.'s and the neighbouring property.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support 2770849 Canada Inc.'s position that the alternative routes proposed by the Coalition along Autoroute 10 would impact fewer residences and water sources, and among other things would have a lesser visual impact than the route proposed by TQM.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

The Board is of the opinion that the general issues raised by 2770849 Canada Inc. concerning the appropriateness of TQM's proposed methods of construction are adequately addressed by TQM's proposed mitigation measures.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of 2770849 Canada Inc., and that TQM has committed to the most appropriate methods and timing of construction.

5.9 Lisa Driver

Mrs. L. Driver owns property within the 30 metre zone of the proposed TQM route, in the Municipality of Eastman. She was represented at the hearing by Mr. M Moliner, her husband. Her concerns include: the consultation process; pipeline safety; and environmental studies. Mrs. Driver is also concerned with compensation for her property and relocation costs. She favours the initially proposed route that was rejected by the MRC and the route proposed by the Coalition.

TQM maintained that its selection criteria as outlined for its proposed detailed route were acceptable. It stated that project-related environmental impacts had been dealt with in the GH-1-97 hearings.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support Mrs. Driver's position that the alternative routes proposed by the Coalition along Autoroute 10 would impact fewer residences and water sources, and among other things would have a lesser visual impact than the route proposed by TQM.

The Board notes that Mrs. Driver also favours the initially proposed route rejected by the MRC but did not provide material evidence supporting that route.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

The Board is of the opinion that the general issues raised on behalf of Mrs. Driver concerning the appropriateness of TQM's proposed methods of construction are adequately addressed by TQM's proposed mitigation measures.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mrs. Lisa Driver, and that TQM has committed to the most appropriate methods and timing of construction.

5.10 Jean Dandurand

Mr. Dandurand owns property within the 30 metre zone of the TQM proposed detailed route, in the Municipality of Bolton East. His issue is that the 30 metre zone imposes many duties but gives him no rights. He agrees with his neighbour, Mr. Moliner, that the pipeline would give rise to many problems such as structural damage to his house and well, deforestation and noise. He requested independent pre- and post-construction surveys of the structural condition of his residence which is 33 m from the right of way, and the testing of his well.

Mr. Dandurand supported the Coalition's route and noted that TQM always had a solution to issues on its proposed route, but could only see problems on the Coalition's route.

TQM maintained its selection criteria as outlined for its proposed detailed route were acceptable. It stated that project-related environmental impacts had been dealt with in the GH-1-97 hearing and noted that issues such as blasting would not be a significant problem when mitigative measures are applied.

The Board asked TQM if there was any alternative site north or south of the Dandurand property where a pipeline could cross with less impact to residences. TQM examined this matter and reported that there are residences, buildings or planned residential development everywhere in the immediate area and no evident better place to cross. TQM maintained that it is not possible to avoid residences altogether.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support Mr. Dandurand's position that the alternative routes proposed by the Coalition along Autoroute 10 would impact fewer residences and water sources, and among other things would have a lesser visual impact than the route proposed by TQM.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

The Board does, however, understand Mr. Dandurand's concern with the proximity of the pipeline to his well and residence. Consequently, in light of the concerns that he expressed during the hearing, and for greater reassurance, the Board will condition TQM to provide for independent third party pre-construction and post-construction inspection surveys rather than have the blasting company do the evaluation.

Further, the Board sees a need to monitor the effects of the construction over a period of time and will condition TQM to file reports on the effects of the construction on Mr. Dandurand's property, with special attention to the effects on his well, septic tank

and residence. The first report shall be filed at the latest 60 days following completion of construction, and the second, two years later.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mr. Jean Dandurand, and that TQM has committed to the most appropriate methods and timing of construction. The Board will condition TQM to pay for an independent third party to do the pre-construction and post-construction inspection survey on behalf of Mr. Dandurand. Moreover, to ensure that the effects on Mr. Dandurand's property are properly addressed, the Board will also condition TQM to file a report on the effects of the construction on Mr. Dandurand's property, with special attention to the effects on his well, septic tank and residence. The first report shall be filed at the latest 60 days following completion of construction, and the second, two years later.

5.11 Lucie Mager and Guy Grandmaison

Ms. Mager and Mr. Grandmaison own property within the 30 metre zone of the TQM detailed route, in the Municipality of Eastman. They are concerned that the property value will be diminished and future development would be jeopardized. They were also concerned with the proximity of the pipeline to their house and well. Lastly, they favoured the Coalition's route.

TQM outlined its route selection criteria for its proposed detailed route and maintained that they are acceptable. It stated that project-related impacts had been dealt with in the GH-1-97 hearing, and this would include the question of devaluation, which TQM stated was not proven. With respect to future development impacts, TQM established that Ms. Mager and Mr. Grandmaison did not own the land that was being considered for this development. TQM filed evidence that the right of way would be approximately 110 m from the house and well.

Views of the Board

The Board considers that the Coalition's proposed alternative routes face serious constraints which have not been adequately addressed including, among other things, the crossing of planned residential developments that have been approved and the routing of the pipeline along a cliff.

The Board notes that the evidence did not support Ms. Mager's and Mr. Grandmaison's position that the alternative routes proposed by the Coalition along autoroute 10 would impact fewer residences and water sources, and among other things would have a lesser visual impact than the route proposed by TQM.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the company is the best possible detailed route for the pipeline and it was not persuaded otherwise by the evidence of the parties.

In the Board's opinion there is no clear evidence that the proposed TQM right of way would impact the potential future development of land which Ms. Mager and Mr. Grandmaison own.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Ms. Mager and Mr. Grandmaison, and that TQM has committed to the most appropriate methods and timing of construction.

5.12 Disposition

The foregoing constitutes our Decisions and Reasons in the Board's MH-2-98 detailed route hearings with respect to the written statements of opposition filed for the Stukely-South area.

A Côté-Verhaaf
Presiding Member

G. Delisle
Member

P.J. Trudel
Member

Calgary, Alberta
August 1998

Chapter 6

Autoroute 55 Area

6.1 Background

By letter dated 7 April 1998, Trans Québec & Maritimes Pipeline Inc. ("TQM" or the "Company") applied to the National Energy Board ("Board" or "NEB") pursuant to section 33 of the *National Energy Board Act* (the "NEB Act") for approval of the Plan, Profile and Book of Reference respecting the detailed route for the PNGTS Extension, a natural gas pipeline from Lachenaie to East Hereford, in the Province of Québec. These mainline facilities were the subject of the NEB public hearing GH-1-97, which was held from 17 November to 17 December 1997 in Montreal and Magog-Orford, Québec. The facilities were approved by the Board in April 1998 and Certificate of Public Convenience and Necessity GC-96 was issued.

The service of notices to landowners pursuant to paragraph 34(1)(a) of the NEB Act occurred between 11 April and 7 May 1998 and the last notice to be published in local newspapers, pursuant to paragraph 34(1)(b) of the NEB Act, occurred on 9 April 1998.

Subsequently, the Board received written statements of opposition concerning specific sections of the detailed route of the pipeline. Pursuant to subsection 35(1) of the NEB Act, the Board held a series of oral public hearings, beginning on 22 July 1998 in Magog-Orford to consider the statements of opposition which met the requirements of the NEB Act and to hear parties that wished to make representations. Subsection 36(1) of the NEB Act states that the purpose of a detailed route hearing is "to determine the best possible detailed route of the pipeline and the most appropriate methods and timing of constructing the pipeline".

There were originally three statements of opposition received with respect to this sector: Mr. Norman Benoît, Mr. Bruce Miller and Mrs. Marie May Butler. On 3 August 1998, Mr. Bruce Miller withdrew his statement of opposition, and Marie May Butler, after having been duly advised of the date, location and time for making representation with regard to her written statement of opposition to the Board, did not appear at the public hearing. Therefore, the only statement of opposition remaining for the Autoroute 55 sector is that of Mr. Norman Benoît, which is dealt with below.

6.2 TQM's Routing Criteria

TQM outlined that it took a number of factors into consideration in selecting the location of the pipeline. The Company adopted the principle of following existing rights of way where available, technically feasible and economically acceptable. TQM considered both paralleling, and joint use of existing rights of way.

Below are some of the criteria TQM applied in selecting a route:

- follow the limits of cultivated fields;
- follow existing infrastructure and utility rights of way;
- favour passage through lands of low agriculture and/or forest potential;

- avoid maple groves;
- route through marginal forest areas to avoid cultivated lands;
- minimize corridor length;
- avoid slopes to minimize erosion;
- avoid sensitive environmental areas;
- avoid high value archaeological zones;
- minimize changes to the visual milieu;
- respect municipal zoning;
- limit crossings of existing infrastructure; and
- avoid residential zones.

TQM outlined its consultation process and reviewed its general route selection criteria. The Company noted that its criteria rested on the principles of respect for property, protection of resources and environmental engineering. In addition to the criteria listed above, other criteria considered were: the pairing of compatible pipelines within a right of way; using part or all of an existing right of way; pairing rights of way; and following the edge of wooded areas, the limits of physical obstacles, power lines in wooded areas or concession lines.

The Board's MH-2-98 Hearing Order noted that landowners and intervenors could make presentations with regard to the proposed detailed route, the potential alternative routes, if any, and the criteria which were used in determining their preferred route.

6.3 Alternative Route Proposed by the *Coalition des propriétaires concernés par le gazoduc* (the "Coalition")

The Coalition

The Coalition advocated as important considerations the use of both environmental selection criteria such as drainage, slope, length of route, forest impact and lot lines, and socio-economic selection criteria such as heritage resources, aesthetics, zoning, infrastructure crossings and residential areas.

By order of priority, the selection criteria used by the Coalition were the following:

- lessen adverse impacts on landowners;
- locate the pipeline as far from residences as possible;
- lessen the adverse effect on exploited forest and cultivated land and avoid wildlife and wooded habitats;
- avoid water crossings and fish ponds, and locate the pipeline away from the water table and flood plains of lakes and water courses;
- avoid heritage and archaeological sites;
- follow lot lines and respect the efficient or expected use of the area; and
- encourage the technical feasibility of the project by locating close to rights of way without conflicting with the other criteria above.

The Coalition filed an alternative route of approximately six km along Autoroute 55 beginning in the vicinity of the point where Benoît Road crosses Autoroute 55 and ending south of Ayer's Cliff. This route initially follows the west side of Autoroute 55 for about two km, and then crosses under the Autoroute and follows the eastern side of the Autoroute for the remaining four km. One of the goals

of this alternative route was to avoid Bunker Hill. Another goal was to have less impact on landowners in general. The Coalition maintained that its alternative route was the best because it would achieve these goals.

Intervenors

Mr. Marius Cloutier intervened in support of the route proposed by the Coalition. In his cross-examination of TQM, the Company acknowledged that it would be possible to construct a pipeline along the Coalition's route.

Mr. Blanchet, a representative of the Québec Ministry of Transport, stated that while the Ministry does not oppose a pipeline paralleling highway rights of way, it requests that a pipeline be located at least 15 to 20 metres away from the edge of the highway right of way for aesthetic reasons.

TQM

TQM explained that, in its early planning, the Company had examined the east side of Autoroute 55 where the Coalition's alternative route is proposed. TQM eventually rejected this route because of possible construction difficulties, notably difficult topography, cliffs, very wet areas, two ponds and a number of slopes which would require lateral crossings. TQM also noted it would have to remove a band of trees that shield a secondary school from the noise of Autoroute 55.

TQM selected a route paralleling Autoroute 55 to a point near the junction of Autoroute 10 and Chemin Benoît. There, the route turns west for a short distance and then southeasterly to follow an abandoned Hydro-Québec right of way, which has been previously cleared of forest. TQM also maintained that its route in this sector addressed the suggestions of the Municipalité Régionale de Comté ('MRC') of Memphrémagog. TQM modified its initially preferred route, at the request of the MRC, to among other things leave a 20-metre band of trees between Autoroute and the pipeline rights of way as a visual screen.

TQM stated that its route was superior from both environmental and technical viewpoints, and that it took into account the characteristics of the sector.

6.4 Norman Benoît

Mr. Benoît is the owner of Lots 1411, 1412 and 1417 in the Municipality of Sainte-Catherine-de-Hatley, Township of Hatley, Registration Division of Stanstead, which the proposed TQM route would cross. Mr. Benoît is engaged in woodlot production, pasture and forage production and a cow-calf operation. He raised a number of concerns about the potential impacts of the TQM route through his property, including: construction within 30 metres of a pond; disruption of natural drainage and creation of a wet area; inconvenience during construction; safety; independent testing of water; construction impact during the deer hunting season; and the effects on farming operations, including the effect of not placing the right of way against the fence of Autoroute 55.

Mr. Benoît supported the Coalition's Autoroute 55 alternative route because it minimized the impact and risks to landowners and would not restrict future development of his land. However, he suggested that, should the Board not approve the Coalition's Autoroute 55 alternative route, TQM cross the autoroute 100 metres further south from the proposed crossing and at a greater angle in order

to avoid Lot 1411. Mr. Benoît proposed a second alternative along side the autoroute fence because it would cause him less inconvenience. Regarding Lot 1412, Mr. Benoît suggested that it should be avoided, or at the very least, that the pipeline should pass at the limits of the lot.

Mrs. Ida Charon, an intervenor, owns Lot 1325 which is across the Autoroute from Mr. Benoît's Lots 1411 and 1412. Mrs. Charon opposed Mr. Benoît's suggestion that TQM cross the autoroute 100 metres further south than TQM's proposed plan calls for and at a greater angle to avoid Lot 1411 because this would adversely affect her property. Mrs. Charon raised the following concerns regarding Mr. Benoît's proposal: cutting of trees which serve as a noise screen from the Autoroute 55; possible adverse effect on a natural spring which feeds into a pond on her property and is used by her horses for drinking; reduced revenue from boarding horses; and possible damage from blasting to her home and well. Mrs. Charon stated that the proposed TQM detailed route on her property is the best possible detailed route.

TQM stated that its detailed route along the west side of Autoroute 55 meets acceptable criteria for route selection by following an existing right of way and would reduce the amount of deforestation and takes into consideration the requests by the MRC of Memphrémagog. TQM also stated that the alternative route proposed by the Coalition would cause construction problems as a result of steep cliffs and a number of slopes that would require lateral crossings. TQM also noted it would have to remove a band of trees that shield a secondary school from the noise of Autoroute 55 and that the Coalition alternative route traverses very wet areas and two ponds. TQM stated that its route was superior from both environmental and technical viewpoints, and that it took into account the characteristics of the sector.

Views of the Board

The Board is of the view that the evidence did not support the position of Mr. Benoît that the Board's proposed alternative route would have less impact than the detailed route proposed by TQM, particularly since it would encounter significant technical and environmental constraints on the eastern side of Autoroute 55 and could result in an adverse noise impact on a secondary school.

The Board is of the view that the evidence does not support Mr. Benoît's position that the other alternative routes that he proposed are better than or equal to the detailed route proposed by TQM. Moreover, for one of these alternatives, there would be potential adverse effects for another landowner.

The Board is of the view that TQM has demonstrated that the detailed route proposed by the Company is the best possible detailed route for the pipeline and the Board was not persuaded otherwise by the evidence of the parties.

In terms of the construction methods, the Board notes that no evidence was submitted that would shed doubt on the appropriateness of the mitigation measures to which TQM has committed. With regard to the timing of the project and to Mr. Benoît's request to the Board to issue an order prohibiting construction in November during the hunting season, the Board is of the view that the issuance of such an order is not required in the present circumstances as the proposed date of operation of the pipeline is 1 November 1998.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Norman Benoit, and that TQM has committed to the most appropriate methods and timing of construction.

6.5 Disposition

The foregoing constitutes our Decision and Reasons in the Board's MH-2-98 detailed route hearings with respect to the written statement of opposition filed by Norman Benoit in the Autoroute 55 area.

A. Côté-Verhaaf
Presiding Member

G. Delisle
Member

P.J. Trudel
Member

Calgary, Alberta
August 1998

Chapter 7

East Hereford

7.1 Background

By letter dated 7 April 1998, Trans Québec & Maritimes Pipeline Inc. applied to the National Energy Board pursuant to section 33 of the *National Energy Board Act* for approval of the Plan, Profile and Book of Reference respecting the detailed route for the PNGTS Extension, a natural gas pipeline from Lachenaie to East Hereford, in the Province of Québec. These mainline facilities were the subject of the NEB public hearing GH-1-97, which was held from 17 November to 17 December 1997 in Montreal and Magog-Orford, Québec. The facilities were approved by the Board in April 1998 and Certificate of Public Convenience and Necessity GC-96 was issued.

The service of notices to landowners pursuant to paragraph 34(1)(a) of the NEB Act occurred between 11 April and 7 May 1998 and the last notice to be published in local newspapers, pursuant to paragraph 34(1)(b) of the NEB Act, occurred on 9 April 1998.

Subsequently, the Board received written statements of opposition concerning specific sections of the detailed route of the pipeline. Pursuant to subsection 35(1) of the NEB Act, the Board held a series of oral public hearings, beginning on 22 July 1998 in Magog-Orford, Québec, to consider the statements of opposition which met the requirements of the NEB Act and to hear parties that wished to make representations. Subsection 36(1) of the NEB Act states that the purpose of a detailed route hearing is "to determine the best possible detailed route of the pipeline and the most appropriate methods and timing of constructing the pipeline".

7.2 Routing Criteria

TQM outlined that it took a number of factors into consideration in selecting the location of the pipeline. TQM adopted the principle of following existing rights of way where available, technically feasible and economically acceptable. TQM considered both paralleling, and joint use of existing rights of way.

Below are some of the criteria TQM applied in selecting a route:

- follow the limits of cultivated fields;
- follow existing infrastructure and utility rights of way;
- favour passage through lands of low agriculture and/or forest potential;
- avoid maple groves;
- route through marginal forest areas to avoid cultivated lands;
- minimize corridor length;
- avoid slopes to minimize erosion;
- avoid sensitive environmental areas;
- avoid high value archaeological zones;
- minimize changes to the visual milieu;

- respect municipal zoning;
- limit crossings of existing infrastructure; and
- avoid residential zones.

TQM outlined its consultation process and reviewed its general route selection criteria. TQM noted that its criteria rested on the principles of respect for property, protection of resources and environmental engineering. In addition to the criteria listed above, other criteria considered were: the pairing of compatible pipelines within a right of way; using part or all of an existing right of way; pairing rights of way; and following the edge of wooded areas, the limits of physical obstacles, power lines in wooded areas or concession lines.

The Board's MH-2-98 Hearing Order noted that landowners and intervenors could make representations with regard to the proposed detailed route, the potential alternative routes, if any, and the criteria which were used in determining their preferred route.

7.3 Alternative Route Proposed by the *Coalition des propriétaires concernés par le gazoduc* (the "Coalition")

Coalition

Mr. Théorêt, environmental analyst for the Coalition, provided expert testimony on an alternate route to the proposed TQM route.

He advocated as important considerations the use of both environmental selection criteria such as drainage, slope, length of route, forest impact and lot lines, and socio-economic selection criteria such as heritage resources, aesthetics, zoning, infrastructure crossings and residential areas.

By order of priority, the selection criteria used by the Coalition were the following:

- lessen adverse impacts on landowners;
- locate the pipeline as far from residences as possible;
- lessen the adverse effect on exploited forest and cultivated land and avoid wildlife and wooded habitats;
- avoid water crossings and fish ponds, and locate the pipeline away from the water table and flood plains of lakes and water courses;
- avoid heritage and archaeological sites;
- follow lot lines and respect the efficient or expected use of the area; and
- encourage the technical feasibility of the project by locating close to rights of way without conflicting with the other criteria above.

The Coalition presented two alternative routes. The Clifton-Hereford alternative route follows a Hydro-Québec right of way in a southwesterly direction from a point of origin near the western junction of the Townships of Clifton and Hereford to a point just east of Villette. This area is mountainous and mostly wooded. The route then changes direction to the southeast and traverses a mountainous area, parallels Leach Creek and meets the U.S. border immediately east of Hereford where a compressor/meter station site is proposed. At that point, the compressor/meter station would be about five km from the point of connection with the PNGIS pipeline. Mr. Théorêt stated that this route should be favoured because it follows a right of way where there are few or practically no

houses. He noted that the route can utilize forestry roads and that the ground water in that area seemed less problematic than elsewhere. He also noted that the Clifton-Hereford route passes within 100 m of residences in Hereford.

The Clifton-Pittsburgh alternative route originates where the proposed TQM route intersects the Chemin Beloin in the Township of East Hereford. At that point the alternative route proceeds east and then southeast through a forested, mountainous area to meet the U.S. border at the Hall River. The pipeline would be approximately six km from the point of connection with the PNGTS pipeline. A compressor/meter station site is proposed near the junction of the route with Highway 253, which is approximately one km from the U.S. border. Mr. Théorêt stated that this route should be favoured because it would avoid the drainage basin of the Hall River and a fish farm, and would have less impact on people. He stated that this route would be better than the proposed TQM route because Buck Creek is only crossed once and it would have an impact on 40 to 50 fewer residence in East Hereford.

Intervenors

Mrs. Ninon Mongeau and Mr. Réal Beloin opposed the Clifton-Pittsburgh route because its right of way would affect nearly two km of their forest operations and that, in their view, could not be mitigated. They were also concerned with the impact of the project on the heritage and tourism vocation of their community. They supported the Clifton-Hereford route as the best possible detailed route because there are no important commercial enterprises along the route and submitted that it would have least impact on the tourism vocation of their community and the Municipality of East Hereford.

TQM

TQM submitted that the purpose of the detailed route hearing is to refine the proposed general pipeline route. TQM further submitted that its proposed route through East Hereford, as well as the proposed site for the compressor/meter station, are acceptable from technical and environmental standpoints, and have been approved by local, regional and provincial authorities. More specifically, TQM submitted that it applied the typically used selection criteria, and its route followed the edges of agricultural and forested lands and forestry roads and that the compression and measurement facilities were located in an industrial zone. Consequently, TQM submitted that the proposed pipeline route and compressor/meter station site are in the best possible locations.

Furthermore, TQM indicated that the proposed alternatives cannot be realized, taking into account the facts that the alternative routes proposed by the Coalition do not meet the interconnection point of the PNGTS pipeline on the U.S. side and that the SM-50 and SM-51 plans have already been approved by the Board.

7.4 Ferme Yval Inc.

Ferme Yval Inc. owns Lots 6E, 7B rang IV and 6C, 7A rang III in the Municipality of East Hereford, Canton of Hereford, Registration Division of Coaticook through which the proposed TQM route would cross. Mrs. Lucie Roy and Mr. Yvon Alain, the owners of Ferme Yval Inc., cited a number of concerns with respect to fragmentation of land; water and well problems; noise; safety; crop loss; natural vegetation and wildlife; heritage; visual aspects and consultation. They did not believe that

TQM had adequately taken these matters into account. Mrs. Roy and Mr. Alain supported the Coalition's alternative routes as being better than the TQM route.

TQM submitted that its proposed route through East Hereford meets acceptable route selection criteria and that issues raised by the Ferme Yval Inc. have already been addressed in GH-1-97.

Views of the Board

The Board is of the view that the evidence did not support the position of the Coalition that either the proposed Clifton-Hereford or Clifton-Pittsburgh alternative routes would have less impact than the detailed route proposed by TQM, particularly since the Clifton-Hereford route would affect residences in Hereford and the Clifton-Pittsburgh route would impact forestry operations.

Moreover, the Board notes that the proposed alternative routes fail to take into consideration the connection point with the PNGIS pipeline, and that the proposed location of the compressor/meter station disregards municipal zoning requirements.

The Board is of the view that TQM has demonstrated that the detailed route that the Company proposed is the best possible detailed route and the Board was not persuaded otherwise by the evidence of the parties.

In terms of construction, the Board notes that no evidence was submitted that would put into question the appropriateness of the mitigation measures to which TQM has committed.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Ferme Yval Inc., and that TQM has committed to the most appropriate methods and timing of construction.

7.5 La Ferme Piscicole des Bobines Inc.

Mr. Normand Roy owns and operates La Ferme Piscicole des Bobines Inc., a fish farm in the Municipality of East Hereford, located, less than one km from the proposed TQM pipeline route. The fish farm's water supply comes from a local aquifer via five wells. The aquifer is sustained by waters from the Hall River, Gooseneck Creek and Buck Creek, and runoff from surrounding mountains. TQM's proposed route crosses these watercourses about one km upstream of the water pumping facilities. The main concern of Mr. Roy is that the construction and operation of the pipeline in these areas may adversely affect the quality and quantity of the water supply for his fish farm, and thus the viability of his expanding business. Mr. Roy was also concerned that a pipeline emergency requiring an evacuation could lead to a partial or total loss of production.

Mr. Roy submitted that the pipeline route should follow the Coalition's Clifton-Hereford alternative route along the existing Hydro-Québec right of way.

Mr. Théorêt, expert witness for La Ferme Piscicole des Bobines Inc., submitted that the construction and operation of the pipeline would have non-negligible impacts on the water quality and the productivity of the aquifer that feeds the fish farm operation. He further submitted that there has not been any risk assessment done on the potential impacts of the pipeline construction activities such as accidental spills. Therefore, Mr. Théorêt submitted that the route proposed by TQM is unacceptable and must be modified.

Ms. Johanne Roy intervened on behalf of La Ferme Piscicole des Bobines Inc. Ms. Roy submitted that she was concerned about the security of the water supply to the fish farm and with other issues such as safety, emergency planning and the visual impact on the Municipality of East Hereford. Ms. Roy favoured the Clifton-Hereford alternative route.

TQM stated that it had hired J.-J. Tremblay, a hydrogeology expert, recommended by Mr. Roy himself to advise TQM on the hydrogeological impacts of the construction and operation of its proposed pipeline on La Ferme Piscicole des Bobines Inc. TQM submitted that the mitigative measures that it proposed were all derived from the recommendations of J.J. Tremblay, and were approved by the *Québec Ministère de l'environnement et de la faune*, and by the *Department of Fisheries and Oceans*. TQM undertook to put in place all the suggested mitigative measures of J.-J. Tremblay, and submitted that Mr. Roy's concerns were not justified.

Views of the Board

The Board is of the view that the evidence did not support the position of the Coalition that either the proposed Clifton-Hereford or Clifton-Pittsburgh alternative routes would have less impact than the detailed route proposed by TQM, particularly since the Clifton-Hereford route would affect residences in Hereford and the Clifton-Pittsburgh route would impact forestry operations.

Moreover, the Board notes that the proposed alternative routes fail to take into consideration the connection point with the PNGTS pipeline, and that the proposed location of the compressor/meter station disregards municipal zoning requirements.

The Board is of the view that TQM has demonstrated that the detailed route that the Company proposed is the best possible detailed route and the Board was not persuaded otherwise by the evidence of the parties.

In terms of construction, the Board notes that no evidence was submitted that would put into question the appropriateness of the mitigation measures to which TQM has committed.

Decision

The Board finds that the route proposed by TQM is the best possible detailed route for the pipeline in the case of La Ferme Piscicole des Bobines Inc., and that TQM has committed to the most appropriate methods and timing of construction.

7.6 H el ene Pariseau and Marc Beloin

Mrs. H el ene Pariseau and Mr. Marc Beloin are intervenors residing in Municipality of East Hereford approximately 200 m from the property line of TQM's proposed compressor/metering station. They cited a number of concerns with respect to the potential impact of the compressor/metering station and the pipeline, including: noise; safety; property devaluation; soil temperature over a pipeline; rare plants; cumulative effects; and soil erosion from spring flooding. Mrs. Pariseau's and Mr. Beloin's main concern is with the impact of noise from the compressor station on their tranquility and on their dairy cattle.

Mrs. Pariseau and Mr. Beloin favoured the Coalition's Clifton-Hereford and Clifton-Pittsburg options. However, if neither of these were possible, they proposed two alternative routes as a last resort. The first alternative route would follow the proposed TQM route to a point about one km south and west of the Village of East Hereford. From that point, the route would go east, cross under Highway 253, parallel the Highway for a short distance, and then continue easterly through a gravel pit to the U.S. border at the Hall River. The compressor/meter station is proposed to be installed in the gravel pit. The pipeline would be about three km from the point of connection with the PNGTS pipeline. Mrs. Pariseau and Mr. Beloin see this alternative as less preferable than the two Coalition alternatives. However, they see advantages to their route compared to the proposed TQM route, including: fewer residents impacted; a shorter route; avoidance of water problems; and avoidance of noise near houses.

Their second alternative route is a variant on the first route. The second route would start at the same point as the first route, but would proceed directly east after crossing under Highway 253. The compressor station would be sited on the eastern side of the Highway right of way. Mrs. Pariseau and Mr. Beloin consider this route to be less preferable than their first proposed route but still preferable to the proposed TQM route.

TQM submitted that the noise issue raised by Mrs. Pariseau and Mr. Beloin is an issue that was dealt with within the context of the GH-1-97 proceeding. TQM maintained that the mitigative measures it proposes to implement would lead to noise emissions from the compressor/meter station that would be below the maximum levels mandated in projected future regulations, which are more restrictive than the current ones, and should address Mrs. Pariseau's and Mr. Beloin's concerns. TQM further submitted that the selected site for the compressor/meter station is the only site within East Hereford designated as an industrial zone and which allows the construction of such a facility, and is not located in a flood zone. TQM stated that Mr. Beloin's suggestion to move the compressor/meter station further upstream the pipeline route would create problems to a number of residences that are located along route 253. TQM therefore submitted that the proposed site for the compressor/meter station is the best possible site, and that the alternative sites proposed by Mrs. Pariseau and Mr. Beloin and the Coalition are not acceptable.

Views of the Board

The Board is of the view that the evidence did not support the position of the Coalition that either the proposed Clifton-Hereford or Clifton-Pittsburgh alternative routes would have less impact than the detailed route proposed by TQM, particularly since the Clifton-Hereford route would affect residences in Hereford and the Clifton-Pittsburgh route would impact forestry operations.

Moreover, the Board notes that all the proposed alternative routes fail to take into consideration the connection point with the PNGTS pipeline, and that the proposed location of the compressor/meter station disregards municipal zoning requirements.

The Board is of the view that TQM has demonstrated that the detailed route that the Company proposed is the best possible detailed route and the Board was not persuaded otherwise by the evidence of the parties.

In terms of construction, the Board notes that no evidence was submitted that would call into question the effectiveness of TQM's proposed mitigation measure in meeting legislated noise limits or other facility-related issues.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mrs. Pariseau and Mr. Beloin, and that TQM has committed to the most appropriate methods and timing of construction.

7.7 Laurien Alain

Mr. Laurien Alain is an intervenor residing in the Municipality of East Hereford. Mr. Alain explained that he draws water from a spring located on the west side of Highway 253, within approximately 15 m of the proposed route of the pipeline. Mr. Alain expressed concerns that excavation and dynamiting in the vicinity of the spring might lead to the disappearance of the spring. He was also concerned that pipeline construction might damage the piping which brings water from the spring to his property. He also maintained that the pipeline was too close to houses. Mr. Alain requested that the proposed TQM pipeline route be modified to follow the second alternative route proposed by Mr. M Beloin.

Mr. Théorêt, expert witness for Mr. Alain, submitted that the fact that the pipeline passes approximately 15 m away from the water gathering facilities of Mr. Laurien Alain's and his sister's spring may have major negative consequences on their water supply, and could even lead to the complete disappearance of the spring.

TQM submitted that it is aware of Mr. Alain's circumstances, but maintained that situations such as this one are not uncommon with pipelines. TQM submitted that past experience has shown that this sort of situation does not lead to major difficulties. TQM stated that in GH-1-97, the Company undertook to correct the situation if the water supply was ever affected by the Company's activities. TQM further submitted that according to its database, the soil composition in the area leads it to believe that the pipeline could be constructed without the use of dynamite. According to TQM, in the event that rock were found during excavation, different options in construction methods and adjustments are available in order to avoid dynamiting. With respect to the water pipes running from the spring to the residences, TQM indicated that it could and would install the pipeline without affecting them.

Views of the Board

As for the alternate routes proposed by the Coalition, the Board notes that the alternative route fails to take into consideration the connection point with the PNGTS pipeline and that the location of the compressor/meter station proposed by the Coalition and Mr. Beloin ignores municipal zoning requirements.

The Board is of the view that TQM has demonstrated that the detailed route that the Company proposed is the best possible route and the Board was not persuaded otherwise by the evidence of the parties.

In terms of construction, the Board notes that no evidence was submitted that would call into question the appropriateness of the mitigation measure to which TQM has committed.

Decision

The Board finds that the detailed route proposed by TQM is the best possible detailed route for the pipeline in the case of Mr. L. Alain, and that TQM has committed to the most appropriate methods and timing of construction.

7.8 Disposition

The foregoing constitutes our Decisions and Reasons in the Board's MH-2-98 detailed route hearings with respect to the written statements of opposition filed for the East Hereford area.

A Côté-Verhaaf
Presiding Member

G Delisle
Member

PJ Trudel
Member

Calgary, Alberta
August 1998

Appendix I

Hearing Order & DOP
