



Administrative Monetary Penalty / Sanction administrative pécuniaire
NOTICE OF VIOLATION / AVIS D'INFRACTION

REFERENCE NUMBER / N° DE RÉFÉRENCE: AMP-001-2017

Information for Pipeline Company / Third Party / Individual:
Information pour la société pipelinère / une tierce partie / un particulier :

Name / Nom :	Landstar Projects Ltd.	TOTAL PENALTY AMOUNT / MONTANT TOTAL DES PÉNALITÉS:
Contact / Contactez:	Jasvinder Aujla and Kulwant Cheema	
Title / Titre:		\$28,000
Address / Adresse:	16726 40th Avenue	Date of Notice / Date de l'Avis:
		15 May, 2017
		Regulatory Instrument # / N° de l'instrument réglementaire:
City / Ville:	Surrey	
Province / State / État	BC, V3Z 1E5	
Telephone / Téléphone:	████████████████████	
Fax / Télécopieur:		
E-mail / Courriel:	████████████████████	

On / Le On or about January 12-13, 2016

Landstar Projects Limited

was observed to be in violation of a NEB regulatory requirement. This violation is subject to an administrative monetary penalty, as outlined below.

a commis une infraction aux exigences réglementaires de l'ONÉ, sujet à la sanction administrative pécuniaire ci-dessous.

1. VIOLATION DETAILS / RENSEIGNEMENTS SUR L'INFRACTION

Date of Violation / Date d'infraction :		Has compliance been achieved? / La situation est-elle rétablie? <input checked="" type="radio"/> Yes / Oui <input type="radio"/> No / Non If no, a subsequent NoV may be issued. Si non, un autre avis d'infraction pourrait être envoyé.
(from / du): on/about 12 January	(to / au): on/about 13 Jan 2016	
Total Number of Days / Nombre total de jours: 1		

Location of Violation / Lieu de l'infraction:

e.g. Facility/plant/head office or nearest geographical point or lat/long / ie: usine/siege central/lieu géographique 10552 159B Street, Surrey, BC

Short Form Description of Violation / Description abrégée de l'infraction	Provision and Short-form Description / Disposition et Sommaire
--	---

<i>Pipeline Crossing, Part I / Règlement concernant le croisement de pipe-lines, partie I</i>	
6 Failure to excavate as prescribed or to obtain leave (Type B) / Omission d'exécuter des travaux d'excavation tel qu'exigé ou d'obtenir l'autorisation (Type B)	

Add Violation
Remove Violation

<input type="checkbox"/>	<i>Contravention of an Order or Decision made under the Act (ss. 2(2) of the AMP Regulations) / Dérogation à une ordonnance ou à une décision rendue sous le régime de la Loi (paragraphe 2(2) du Règlement sur les sanctions administratives pécuniaires)</i>
--------------------------	--

<input type="checkbox"/>	<i>Failure to comply with a term or condition of any certificate, licence, permit, leave or exemption granted under the Act (ss. 2(3) of the AMP Regulations) / Manquement à une condition d'un certificat, d'une licence, d'un permis, d'une autorisation ou d'une exemption accordé sous le régime de la Loi (paragraphe 2(3) du Règlement sur les sanctions administratives pécuniaires)</i>
--------------------------	---

2. RELEVANT FACTS / FAITS SAILLANTS

Briefly describe reasonable grounds to believe a violation has occurred / Décrire brièvement les motifs raisonnables de croire qu'une infraction a été commise

On 21 January, 2016, Kinder Morgan Canada (KMC) reported an unauthorized activity on the TransMountain Pipeline ULC Mainline to the National Energy Board (NEB) in accordance with the National Energy Board Pipeline Crossing Regulations, Part II, SOR/88-529, paragraph 13(1)(a). This unauthorized activity (UX2016-003) was reported to the NEB's Event Reporting System (ERS) as a ground disturbance resulting from an excavation activity which was discovered, and having occurred, on 13 January 2016.

As a result of the NEB's internal review of this reported event, it was discovered that:

1 - On 12 January, 2016, KMC Ground Patrol discovered that A&G Excavating Ltd., a contractor for Landstar Projects Ltd. (developer), was doing ground disturbance work within 20 metres (m) North of KMC's Mainline pipeline without written permission by KMC. Photos of the unauthorized activity near the TransMountain Mainline pipeline were taken on 12 January 2016 by the KMC patroller. A stop work order was also issued on 12 January 2016 at the site by the KMC patroller to Mr. Parmar of A&G Excavating Ltd. for operating an excavator within the KMC 30m safety zone. Work was stopped until the next day when KMC could attend the site and issue a work permit. When the KMC patroller questioned why the work was being performed without authorization, Mr. Parmar stated that he was aware of the location of the pipeline but had been told by Mr. Aujla of Landstar Projects Ltd. that no permitting from KMC was required. When the KMC patroller spoke with Mr. Aujla of Landstar Projects Ltd. about whether a permit was needed, Mr. Aujla stated that he thought they were outside the 30m zone. Mr. Aujla then placed a ticket with KMC for work to continue.

2 - On 13 January, 2016, KMC PLP Technician went on site to issue a Safety Zone Permit, and provided copies of KMC Ground Disturbance Pipeline Protection Requirements to A&G Excavating Ltd and to Landstar Projects Ltd. The PLP Technician took more photos of the proximity of the ground disturbance to the KMC Right-of-Way (RoW). The PLP Technician's report also stated that in the past, he had met with Landstar representatives Mr. Aujla and Mr. Cheema regarding new subdivision projects to issue 30m permits, inspect Proximity Installations and review KMC Requirements for Ground Disturbance.

3 - On 21 January, 2016, as a result of its investigation, KMC sent a letter to Landstar Projects Ltd. (Mr. Jasvinder Aujla) and A&G Excavating Ltd. (Mr. Kulwinder Parmar) regarding the unauthorized activity which was noted to have occurred on 13 January 2016 near the TransMountain Mainline pipeline and its RoW, without necessary KMC permits and supervision. The letter further states that this activity was in contravention of section 112 of the National Energy Board Act (NEB Act).

4 - On 7 April, 2016, KMC submitted its final report to the NEB on UX2016-003, which included its letter to Landstar Projects Ltd. on 21 January 2016, internal report and photos.

5 - On 21 April, 2016, NEB staff followed up about the unauthorized activity UX2016-003, and left a voice mail message for Mr. Parmar, A&G Excavating Ltd. On 29 April, 2016, Mr. Parmar returned the call and stated that the developer, Landstar Projects Ltd., said they had a permit. He found out later that the permit was for another job.

6 - On 29 April, 2016, NEB staff followed up about the unauthorized activity and left a voice mail message for Mr. Cheema, a partner in Landstar Projects Ltd. On 2 May, 2016, Mr. Cheema returned the call and said he would have Mr. Aujla phone back with the details. NEB staff stressed the importance of placing a One-Call for ground disturbance work.

7 - On 4 May, 2016, NEB staff spoke with Mr. Aujla, Landstar Projects Ltd., and discussed the unauthorized activity UX2016-003 and requested certain documentation.

8 - On 5 May, 2016, NEB staff sent a damage prevention letter to A&G Excavating Ltd. regarding UX2016-003 which occurred on or about 12-13 January 2016, outlining the requirements for working in and around federally regulated pipelines and provided copies of various NEB publications. A similar letter was also sent to Landstar Projects Ltd. (Mr. Aujla and Mr. Cheema) for UX2016-003 which was reported to the NEB to have occurred on 13 January 2016, and requested that information and documentation in relation to the unauthorized activity and in relation to company safety procedures be submitted in writing to the NEB by May 31, 2016.

9 - On 23 May, 2016, NEB staff received an email from Mr. Aujla which was in response to an earlier email from NEB staff on 2 November, 2015, that was in relation to another event (UX2015-043) that had been reported to the NEB's ERS by KMC in April 2015 (UX2015-043). Event UX2015-043 was regarding an unauthorized activity directly across the TransMountain Mainline Pipeline and RoW on 6 April 2015 without KMC permits or supervision. Mr. Aujla said they were working on submitting the requested information that week.

10 - On 20 June, 2016, NEB staff followed up by email with Mr. Aujla indicating the documentation requested in the 5 May, 2016 letter had not been received.

11 - On 15 July, 2016, NEB staff sent Landstar Projects Ltd. via email and ordinary mail an amended copy of the damage prevention letter of May 5, 2016 showing the correction in highlight. The information corrected was the address location of the unauthorized activity, which was originally noted as "10532-159B Street Surrey BC" and corrected to "10552-159B Street Surrey BC".

12 - On 21 July, 2016, NEB staff sent an email to Mr. Aujla as the NEB had not received the requested information in relation to the two unauthorized activities UX2015-043 and UX2016-003. The email stated that the files were being referred to the NEB Enforcement and Investigation Team for further review. NEB staff later received a phone message from Mr. Aujla regarding a call from the NEB staff.

13 - On 22 July, 2016, NEB staff spoke with Mr. Aujla, as the requested information had not been received. He mentioned that they were renovating their office, and he did not have the damage prevention letter. He asked if the letter could be emailed to him again. NEB staff emailed a copy of the amended damage prevention dated 5 May 2016 for UX2016-003.

14 - On 22 July, 2016, NEB staff received a letter from Mr. Kulwant Cheema, Director of Landstar Projects Ltd., stating that " We would like to apologize for our offences and negligence due to miscomprehension of the National Energy Board Pipeline Crossing Regulations". Mr. Cheema provided an explanation about the two unauthorized activities UX2016-003 and UX2015-043 which he called "offences". The letter also described Landstar Project Ltd.'s safety procedure for excavating and constructing near federally regulated pipelines.

15 - On 23 August, 2016, NEB staff contacted Mr. Aujla by phone to follow up on Landstar Projects Ltd.'s process and procedures for excavation activities near pipelines. Mr. Aujla provided the following information:

- 1) Landstar does not have written procedures pertaining to work around pipelines. Their documentation is limited to brochures provided to Landstar by the NEB and KMC. Mr. Aujla and Mr. Cheema have a handbook they follow.
- 2) Landstar always uses the same contractor for excavation. Mr. Aujla and Mr. Cheema coordinate the contractors.
- 3) Either Mr. Aujla or Mr. Cheema will remain on the job site when work is being conducted. They have meetings with contractors to make sure things go smoothly.
- 4) Landstar makes the BC One-Call, not the contractor.

16 - On 20 September, 2016, NEB staff requested confirmation from KMC regarding the dates and physical addresses of the two unauthorized activities, as Landstar Projects Ltd.'s letter of 22 July 2016 to the NEB appeared to be incorrect. KMC provided the following: Landstar Projects Ltd. conducted two unauthorized activities at the following locations:

- 1) 2015/04/06, 10532 159B Street, Surrey, BC, replacement of a wood panel fence, NEB file #UX-2015-043; and
- 2) 2016-01-13, 10552 159B Street, Surrey, BC, ground disturbance completed 20 metres from the pipeline in a new residential development, NEB file #UX-2016-003.

As a result of this unauthorized activity that occurred on or about 12-13 January 2016, Landstar Projects Ltd. was found to have conducted an excavation activity without leave of the NEB or written permission of KMC pursuant to paragraphs 112(5)(b)(iii) of the National Energy Board Act and subsection 6(b) of the National Energy Board Pipeline Crossing Regulations, Part I, provisions in force at the time of the unauthorized activity, which state:

National Energy Board Act, R.S.C., 1985, c. N-7

Subsection 112(5):

- (5) The Board may make orders or regulations governing
 (b) the measures to be taken by any person in relation to
 (iii) excavations within thirty metres of a pipeline;

National Energy Board Pipeline Crossing Regulations, Part I SOR/88-528

Subsection 6 (b):

6 - Leave of the Board is not required for an excavation, other than an excavation referred to in section 7, if

- (b) the excavator obtains written permission from the pipeline company prior to the excavation and accepts any conditions set out in the permission;

Although KMC's TransMountain Mainline pipeline was not struck and damaged, it was an active pipeline on 12-13 January 2016 carrying oil. At the location of the ground disturbance, the pipeline is in close proximity to a densely populated residential area, including: Fraser Heights Recreation Centre (106m), Fraser Heights Secondary School (370m), three strip malls (570m) and the Trans-Canada Highway (160m), and thus the unauthorized disturbance causes concern for the safety of the public and the environment.

3. PENALTY CALCULATION / CALCUL DES SANCTIONS

(a) BASELINE PENALTY (Gravity Value = 0) / PÉNALITÉ DE BASE (côte de gravité = 0)

Category / Catégorie	(Type A)	Individual / Personne physique	Any Other Person / Autre Personne
		<input type="checkbox"/> \$1,365	<input type="checkbox"/> \$5,025
	(Type B)	<input type="checkbox"/> \$10,000	<input checked="" type="checkbox"/> \$40,000

[Refer to [AMP Regulations](#), Subsection 4(1) / Voir le [Règlement](#), paragraphe 4(1)]

(b) APPLICABLE GRAVITY VALUE / COTE DE GRAVITE GLOBALE APPLICABLES

[Refer to [AMP Regulations](#), Subsection 4(2) / Voir le [Règlement](#), paragraphe 4(2)]

Mitigating / Atténuer		Aggravating / Aggravantes			
-2	-1	0	+1	+2	+3

<input checked="" type="checkbox"/> Other violations in previous seven (7) years / Autres infractions au cours des sept (7) années précédentes	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Any competitive or economic benefit from violation / Avantages concurrentiels ou économiques découlant de l'infraction	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Reasonable efforts to mitigate / reverse violation's effect / Efforts raisonnables déployés pour atténuer ou annuler les effets de l'infraction	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Negligence on part of person who committed violation / Négligence de la part de la personne ayant commis l'infraction	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Reasonable assistance to Board with respect to violation / Collaboration raisonnable avec l'Office en ce qui a trait à l'infraction	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Promptly reported violation to Board / Infraction signalée sans délai à l'Office	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Steps taken to prevent reoccurrence of violation / Mesures prises pour prévenir les récidives	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
Landstar Projects Ltd. provided some information in their letter to the NEB on 22 July, 2016 regarding their safety procedures for excavating and constructing near federally regulated pipelines.						
<input checked="" type="checkbox"/> Violation was primarily reporting / record-keeping failure / Infraction reliée principalement à la production de rapports ou à la tenue des dossiers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	--	--	--
* insert additional information, as required *						
<input checked="" type="checkbox"/> Any aggravating factors in relation to risk of harm to people or environment / Facteurs aggravants pouvant causer du tort au public ou à l'environnement	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
* insert additional information, as required *						
(c) TOTAL GRAVITY VALUE / COTE DE GRAVITÉ GLOBALE					-1	
(d) DAILY PENALTY / SANCTIONS QUOTIDIENNES						
(The baseline penalty, adjusted for the final gravity level) (Pénalité de base d'après la côte de gravité)			\$	\$28,000		
(e) NUMBER OF DAYS OF VIOLATION / DURÉE DE L'INFRACTION						
(If more than one day, then the justification must be provided.) (Si plus d'une journée, prière de justifier.)						
Notes to explain decision to apply multiple daily penalties, or "Not Applicable" / Notes pour expliquer la décision d'appliquer des pénalités multiples quotidiennes, ou «sans objet»						

4. TOTAL PENALTY AMOUNT / MONTANT TOTAL DE LA PÉNALITÉ	\$ 28,000
<p>Note: The total penalty amount shown is based on the period described in Step 1 above. If compliance has not been achieved, a subsequent Notice of Violation may be issued. Le montant total de la pénalité est calculé d'après la période décrite à l'étape 1 ci-dessus. Si la situation n'a pas été rétablie, un autre avis d'infraction pourrait être envoyé.</p>	
5. DUE DATE (30 days from receipt of Notice of Violation)	15 June, 2017
DATE LIMITE (30 jours à compter de la réception de l'Avis d'infraction)	

Notes

You have the right to make a request for a review of the amount of the penalty or the facts of the violation, or both, within 30 days after the Notice of Violation was received.

If you do not pay the penalty nor request a review within the prescribed period, you are considered to have committed the violation and you are liable for the penalty set out in the Notice of Violation. The penalty is due on the date indicated above.

The unpaid penalty amount is a debt due to the Crown and may be recovered by collection procedures stipulated in the [Financial Administration Act](#).

The information regarding the violation may be posted on the NEB website:

- a) 30 days from the date this Notice of Violation was received or;
- b) upon issuing a decision following a Request for Review.

To Make Payment:

You may remit your fee payment by Electronic Funds Transfer (EFT) or by cheque payable to the order of Receiver General for Canada.

EFT payments can be arranged by contacting the Director of Financial Services, Monday to Friday, from 09:00 to 16:00 Mountain Time:

Telephone: 403-919-4743 / 800-899-1265
Fax: 403-292-5503 / 877-288-8803

Cheques should be made out to the "Receiver General for Canada" and mailed to:

National Energy Board
Attention: Finance
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

Your completed *Payment* form should be enclosed with your payment.

Notes

Vous disposez de 30 jours après la signification de l'Avis d'infraction pour demander une révision du montant de la pénalité, ou les faits rapportés, ou les deux.

Si les sanctions ne sont pas acquittées et qu'aucune révision n'est demandée, vous êtes considérés comme coupable de l'infraction et vous devez payer les sanctions précisées dans l'Avis d'infraction. Les sanctions sont payables à la date indiquée ci-dessus.

Un défaut de paiement constitue une créance envers l'Etat et peut être recouvré en utilisant tous les recours prévus dans la [Loi sur la gestion des finances publiques](#).

L'information concernant l'infraction pourrait également être affichée sur le site Web de l'ONÉ:

- a) 30 jours après la date de réception de l'Avis;
- b) dès qu'une décision a été rendue à la suite d'une Demande de révision.

Paiement:

Vous pouvez payer le montant dû par transfert électronique de fonds (TEF) ou par chèque établi à l'ordre du Receveur général du Canada.

Pour se prévaloir du service de transfert électronique, communiquer par téléphone avec le Directeur, Service des finances, du lundi au vendredi, de 9 h à 16 h, heure des Rocheuses :

Telephone: 403-919-4743/ 800-899-1265
Telec. : 403-292-5503/877-288-8803

Les chèques doivent être établis à l'ordre du Receveur général du Canada et postés à l'adresse suivante:

Office national de l'énergie
Service des finances
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Le formulaire de *paiement* dûment rempli doit accompagner le paiement.

To Request a Review

Pursuant to the NEB Act, Section 144, you may file a request for a review of this Notice of Violation by the Board.

The date of filing is the date on which the document is received, as indicated by the date on an e-mail submission or the stamped on the document by a NEB employee.

If you elect to make a request for a review, complete and submit the attached *Request for Review* form to:

Administrative Monetary Penalty - Reviews
National Energy Board
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

For more information on reviews, please see the Administrative Monetary Penalties Process Guide available on the NEB's [website](#).

If you have any questions regarding this matter, please contact the undersigned.

Sincerely,

Demande de révision

En vertu de l'article 144 de la Loi sur l'ONE, vous pouvez présenter à l'Office une *Demande de révision* de cet Avis l'infraction.

La date du dépôt correspond à la date de réception du document, qui apparaît sur l'envoi électronique ou le timbre apposé sur le document par un employé de l'ONE.

Si vous voulez demander une révision, veuillez remplir et soumettre le formulaire de Demande de révision à l'adresse suivante :

Sanction administrative pécuniaire - Révision
Office national de l'énergie
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Pour de plus amples informations sur le processus de révision, prière de consulter le Guide sur le processus relatif aux sanctions administratives pécuniaires sur le [site Web](#).

Pour toute question à ce sujet, veuillez communiquer avec la personne soussignée.

Sincères salutations,

Robert Steedman

Designated Officer
Administrative Monetary Penalties

Fonctionnaire désigné
Sanctions administratives pécuniaires

1-800-899-1265 or 403-292-4800