

National Energy
Board



Office national
de l'énergie

File: OF-Surv-Vio-T260-164
Unauthorized activity file: UX-2012-134

4 February 2013

██████████
VP Business Development
Rokstad Power Corporation
#1115, 1608 Broadway Street
Port Coquitlam, BC V3C 2M8

**Re: Notice of an Inspection Officer Order issued pursuant to section 51.1 of the
*National Energy Board Act***

Dear ██████████,

From April 2010 to 3 October 2013, the National Energy Board Inspector has been made aware of a number of unauthorized activities stemming from work conducted by Rokstad Power Corporation (Rokstad) in British Columbia on the Trans Mountain Pipeline ULC on behalf of Trans Mountain LP (owned and operated by Kinder Morgan Canada) right-of-way. These unauthorized activities were reported to the Inspector by Kinder Morgan Canada (Kinder Morgan).

Since 2011, and on three occasions, Rokstad has constructed facilities above or along a federally-regulated pipeline or excavated within 30 metres of a federally-regulated pipeline without obtaining written permission from the pipeline company. Rokstad has failed in its obligation to make sure that this work was performed in accordance with the *National Energy Board Pipeline Crossing Regulations (the PCR), Part I*.

Given the Board's responsibility for promoting safe work practices near federally-regulated pipelines, and consistent with the Board's compliance enforcement framework for damage prevention, the Inspector has decided to, under the circumstances, issue the attached Inspection Officer Order KAR-002-2013 (the IOO). The Inspector has further determined that this IOO is an enforcement measure required to correct the underlying causes of the unauthorized activities.

This letter constitutes written notice of the issuance of the IOO to Rokstad.

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Calgary, Alberta T2P 0X8

444, Septième Avenue S.-O.
Calgary (Alberta) T2P 0X8

Canada

Telephone/Téléphone : 403-292-4800
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<http://www.neb-one.gc.ca>
Telephone/Téléphone : 1-800-899-1265
Facsimile/Télécopieur : 1-877-288-8803

In issuing the IOO, the Inspector determined that the PCR, Part I, had been contravened. The Inspector also determined that Rokstad does not have an effective procedure in place concerning safe work practices near federally-regulated pipelines. Finally, as stated above, Rokstad has not contacted Kinder Morgan as required by the PCR.

These contraventions meet the NEB criteria for classification as high-risk unauthorized activity, for the following reasons:

- i. Unauthorized activities conducted by Rokstad were reported to the NEB once in 2010 and twice in 2012, and therefore Rokstad is considered to be a repeat offender.
- ii. Rokstad conducted excavation within 30 metres of a federally-regulated pipeline and constructed facilities above, below or along a federally-regulated pipeline without obtaining the necessary written permission, as required by the PCR.

Remedial action: Inspection Officer Order

Because it is a repeat offender, Rokstad is considered a risk to public safety and the protection of the environment. Accordingly, Rokstad must remedy the underlying causes of its non-compliance in order to prevent another violation.

IOO KAR-2013-002 requires Rokstad to develop, implement and demonstrate that there is a safety procedure in place so that:

1. its excavation activities within 30 metres of a federally-regulated pipeline; or
2. its construction of facilities above, below or along a federally-regulated pipeline;

Are not carried out until Rokstad has obtained all the necessary written permission required by the PCR, and until Rokstad is in compliance with all the conditions stated in the written permission.

The IOO is attached. It requires Rokstad to provide the Board Inspector, by **March 29, 2013** at the latest, with a written procedure describing the actions it will take to comply with the PCR in future.

The IOO may not be lifted until Rokstad has met all of its conditions.

Pursuant to section 51.4 of the *National Energy Board Act*, every person who fails to comply with an IOO is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or on conviction on indictment to a fine not exceeding one million dollars.

Rokstad is asked to provide the Board's Inspector with its written procedure by **29 March 2013 at the latest**. For additional information, please contact one of the individuals listed below, by telephone or e-mail, or at the Board's toll-free number 1-800-899-1265:

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Sincerely,

[REDACTED]

Inspection Officer
National Energy Board



ORDER NO. KAR - 002 - 2013
Officer's initials *Order #* *Year*

IN THE MATTER OF THE *NATIONAL ENERGY BOARD ACT*, AN ORDER UNDER
SECTION 51.1

Rokstad Power Corporation
Full name of the person or Contractor

From April 2010 to October 3, 2012, the undersigned *National Energy Board* Inspection Officer (the Inspector) received a number of unauthorized activities reports stemming from work conducted by Rokstad Power Corporation (Rokstad) in British Columbia on the Trans Mountain Pipeline ULC on behalf of Trans Mountain LP (TMPL) (owned and operated by Kinder Morgan Canada) right-of-way. These unauthorized activities were reported by Kinder Morgan Canada (Kinder Morgan). Specifically these were:

1. **UX 2012-134** – (date: 11 Nov 2012; location: 7230 Kitchener Street, Burnaby, BC). Rokstad Power was discovered to have excavated a hole for a new BC Hydro hydro pole three meters from the TMPL pipeline without notification to Kinder Morgan via BC One Call or without receiving permission from the pipeline company.
2. **UX2012-018** – (date: 14 Feb 2012; location: 834 Cottonwood Ave, Coquitlam, BC). This concerned a hydro pole replacement within 12 meters of the TMPL pipeline without receiving permission from Kinder Morgan or without a Kinder Morgan inspector present.
3. **UX2010-038** – (date: 10 Apr 2010; location: 7065 Bayview Drive, Burnaby, BC). This concerned a hydro pole replacement by BC Hydro/Galbraith Power/Groundhog Construction within 1.2 meters of the TMPL pipeline, without notification to BC One Call or without receiving permission from Kinder Morgan (or without a Kinder Morgan inspector present).

The Inspector noted that: Rokstad does not have an effective procedure in place concerning safe work practices near federally-regulated pipelines. Furthermore, Rokstad has failed to contact Kinder Morgan before commencing excavation within 30 metres of a federally-regulated pipeline or commencing the construction of a facility above, below or along a federally-regulated pipeline as required by the *National Energy Board Pipelines Crossing Regulations, Part I* (the Regulations).

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In view of the above, the Inspector has reasonable grounds to believe that the continued lack of safety awareness and safety procedures for excavation within 30 metres of a federally-regulated pipeline or for construction above, below or belong a federally-regulated pipeline may cause a hazard to the safety of the public or to the employees of the company or a detriment to the environment or to property.

Therefore, Rokstad, is HEREBY ORDERED, pursuant to section 51.1 of the *National Energy Board Act*, to

X take the measures Stop work Immediately by 29 March 2013
specified below for
guarding the safety or
security of the public or
employees of the company
or for protecting the
environment or property

Specified measures

Rokstad shall demonstrate to the Inspector that it will obtain all written permission required to construct a facility above, below or along a federally-regulated pipeline or to excavate within 30 metres of a federally-regulated pipeline, in accordance with the Regulations.

In addition to ongoing compliance with the Regulations, Rokstad will develop and implement a safety procedure to make sure that excavation or construction work near a federally-regulated pipeline is performed in accordance with the Regulations. The safety procedure shall provide for the following, at a minimum:

1. Rokstad shall not excavate within 30 metres of a federally-regulated pipeline or construct a facility above, below or along a federally-regulated pipeline (hereafter referred to as the "Work") unless it is in compliance with the Regulations.
2. Rokstad shall contact the pipeline company directly or via BC One Call prior to commencing any Work.
3. Rokstad shall obtain all necessary written permissions from the pipeline company before commencing Work. Rokstad shall make sure that it understands the conditions and instructions set out in the written permissions and is able to comply with them.

4. In the event of a modification to the Work for which permission from the pipeline company has been obtained, Rokstad shall communicate the modification to the pipeline company and validate that the pipeline company's permission remains applicable to the Work, as modified.
5. Rokstad shall follow up to identify and remedy any deficiencies in the safety procedure. Where Rokstad identifies and remedies any deficiencies in the procedure, Rokstad shall verify the successful implementation of the procedure to avoid future unauthorized activities.

Rokstad shall make sure that the procedure is fully and successfully implemented, and shall comply with the procedure on an ongoing basis.

As stated above, if Rokstad is required to perform construction work above, below or along a federally-regulated pipeline or to carry out excavation within 30 metres of a federally-regulated pipeline, Rokstad shall comply with the Regulations and shall implement the specific measures described above, where they are relevant and applicable.

Rokstad shall provide the Inspector with a written commitment to this effect as soon as possible after receiving this Order.

To have this Order lifted, Rokstad must provide the Board Inspector with a written procedure that includes the specific measures described in paragraphs one to five above, no later than 29 March 2013.

Signed by: _____
Inspection Officer ID No.: _____ 1554

Inspection Officer: _____

Failure to comply with this Order will result in further enforcement action by the Board. Failure to comply with this Order constitutes an offence punishable on conviction.