



## **INSPECTION OFFICER ORDER NO LM – 001 – 2024**

### **IN THE MATTER OF THE CANADIAN ENERGY REGULATOR ACT, AN ORDER UNDER SECTION 109**

Bluetec Construction Inc. (Bluetec) is a Company conducting ground disturbance in the prescribed area of the Trans-Northern Pipelines Inc. (TNPI) in Oshawa, Ontario.

On 31 October 2024, at approximately 10:30am the undersigned Canada Energy Regulator (CER) Inspection Officer conducted a field inspection (CV2425-353) at 1565 Thorton Road North, Oshawa, Ontario (the Site) in proximity to the TNPI Mainline owned by TNPI.

Based on the findings of the inspection, the CER Inspection Officer is issuing this Order on 09 December 2024 at 11:10am to Bluetec.

#### **RELEVANT FACTS**

The following are the relevant facts relating to the issuance of this Order:

1. On 30 October 2024, the CER received a report from TNPI of an alleged contravention at the Site, as it was performed without a TNPI inspector on-site in violation of the conditions set out in the written consent issued by TNPI.
2. During the 31 October 2024 field inspection, the CER Inspection Officer observed that the subcontractor, Bluetec, had mechanically excavated an area resulting in a ground disturbance within the 30 metre prescribed area of the TNPI Mainline. The ground disturbance was approximately 10 metres wide, 15 metres long and 60 cm deep. The general contractor on-site, Nexrock Design Build (Nexrock), indicated that it had instructed Bluetec to carry out this activity to stabilize the ground to facilitate the movement of heavy equipment across the Site.
3. The CER Inspection Officer is satisfied that there was a written consent obtained from TNPI for this project. However, the CER Inspection Officer confirmed there was no TNPI inspector on-site for work being done within the prescribed area, which is contrary to the conditions set out in TNPI's consent. During the inspection, representatives from both the General Contractor (Nexrock) and subcontractor (Bluetec) stated that several factors contributed to their decision to proceed with the ground disturbance without a TNPI inspector on-site. These factors included the need to stabilize the area, the cost of the subcontractor, and the level of activity at the Site.
4. Bluetec was unable to demonstrate that it had made a locate request for the specific ground disturbance and excavation observed by the CER Inspection Officer. Instead, reliance was placed on the metal fence that delineated the location of the pipeline.

5. Bluetec had previously received an Inspection Officer Order PRY-001-2023 in August 2023, for ground disturbance in the same area. The IOO PRY-001-2023 suspended all work activities until the Site was deemed safe. During the resolution of the issue, the CER provided Bluetec with the regulatory requirements related to ground disturbance in proximity of federally regulated pipelines.
6. TNPI stopped the work and its concerns were addressed in a stand-down meeting with Bluetec and Nexrock on 2 November 2024.
7. There is potential for additional work in proximity to TNPI's pipeline or any other federally regulated pipeline.

The following provisions of the Act and/or Regulations that are alleged to have been contravened:

1. *Canadian Energy Regulator Pipeline Damage Prevention Regulation – Authorizations (DPR-A)*

**10(1)** For the purposes of subsection 335(1) of the Act, any activity — in an area other than an offshore area — that would cause a ground disturbance within the prescribed area, other than an activity referred to in section 11, is authorized if the person that intends to engage in the activity

(a) obtains the pipeline company's written consent;

(b) makes a locate request in accordance with section 3; and

(c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the [Canadian Energy Regulator Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies](#).

**10(3)** Any person that is engaged in an activity that causes a ground disturbance within the prescribed area must comply with the following measures:

(a) ensure that the activity is carried out in accordance with the technical details that are set out in the person's request for consent and that have been accepted by the pipeline company, as well as with the conditions set out in the pipeline company's consent, including the conditions respecting directional drilling or the use of explosives;

(d) comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed during the activity and that relate to the pipeline's safety and security;

2. *Canadian Energy Regulator Act (CER Act)*

**335(1)** It is prohibited for any person to construct a facility across, on, along or under a pipeline or engage in an activity that causes a ground disturbance within the prescribed area unless the construction or activity is authorized or required by the orders made

under subsection (3) or (4) or regulations made under subsections (5) or (6) and done in accordance with them.

## MEASURES TO BE TAKEN

The CER Inspection Officer requires additional measures in the form of written procedures from Bluetec that are necessary to promote the prevention of harm to the public and the environment. Bluetec had previous exposure to the CER's regulatory requirements, yet it still failed to observe the conditions of the consent by conducting a ground disturbance in the prescribed area without a company inspector on-site. It is important to avoid a pattern of potential unsafe practices for construction or ground disturbances near the pipeline.

*Based on the facts and findings referenced herein, where the Inspection Officer has reasonable grounds to believe that there is or is likely to be a contravention of Parts 2 to 5 or section 335 of the CER Act, or for a purpose referred to in subsection 102(2) CER Act, the Inspection Officer may, by Order, direct a person to*

- a. stop doing something that is in contravention of Parts 2 to 5 or section 335 or cause it to be stopped;*
- b. take any measure that is necessary in order to comply with Parts 2 to 5 or section 335 or mitigate the effects of non-compliance;*
- c. stop doing something that may cause a hazard to the safety or security of persons, or damage to property or the environment or cause it to be stopped; or*
- d. take any measure that is necessary to prevent or mitigate the hazard to the safety or security of persons or damage to property or the environment.*

Bluetec Construction Inc. is ORDERED pursuant to subsections 109(1) and 109(2) of the CER Act to:

- Take measures specified below under Specified Measures as per paragraphs (b) and (d) above
- Stop doing something as specified below under Specified Measures as per paragraphs (a) and (c) above
- Suspend work associated with a facility, including a regulated facility, abandoned facility or ground disturbance, until the hazardous or detrimental situation has been remedied to the satisfaction of an Inspection Officer or until this order is stayed or rescinded.

## SPECIFIED MEASURES

1. Bluetec shall develop and implement a written safety procedure that includes the following requirements:
  - a) Making a locate request in the following manner at least three working days before the day on which the construction or activity is to start:

- 1) to a one-call centre if the intended construction or activity is within an area where a one-call centre exists; or
  - 2) to the pipeline company directly if the intended construction or activity is not within an area where a one-call centre exists as per s.3(1) DPR-A.
- b) obtaining the pipeline company's written consent before commencing work as per s.10(1)(a) of the DPR-A ;
  - c) obtaining written safety information from the company including an explanation of locate markings as per s.10(1)(c) of the DPR-A;
  - d) ensuring that the company inspector is on-site when required by the conditions of the consent;
  - e) ensuring Bluetec employees and contractors understand and comply with the conditions set out in the consent, including when a company inspector is required on-site; and
  - f) a description of how Bluetec will ensure that the procedure is fully and successfully implemented, such as the timeline and method for its communication of and training for this procedure to all its staff.
2. Bluetec shall provide to the CER Inspection Officer its safety procedure on or before 10 January, 2025.

**EFFECTIVE DATE OF THE ORDER**

This Inspection Officer Order takes effect immediately on 09 December 2024 at the time of delivery of this Order to the Company to whom it is directed. Nothing in this Order shall be construed as reducing, increasing, or otherwise affecting what may be required of the Company to whom it is directed to comply with all applicable legislative or legal requirements.

**COMPLIANCE WITH THIS INSPECTION OFFICER ORDER IS MANDATORY**

Failure to comply with an Inspection Officer Order issued under section 109 of the CER Act is an offence under section 112 of the CER Act that reads, in part (1) Every person who contravenes subsection 103(4) or fails to comply with an order under section 109 is guilty of an offence and is liable

- (a) on conviction on indictment, to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than five years or to both; or
- (b) on summary conviction, to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year or to both.

<b>Inspection Officer</b>	09 December 2024
	<b>Date</b>

	<b>IO Designation Number</b>	<b>Signature</b>
	210-517 10 Ave SW, Calgary AB T2R 0A8	

*Please note that:*

1. *In compliance with the CER's Enforcement Policy, this Order will be posted on the CER's website.*
2. *All submissions to the CER in response to the Order are to be provided within the CER Operations Regulatory Compliance Application (ORCA) quoting the associated CVA #, Inspection Officer Order #, and any specific measure with which the submission is associated. In addition, the Company is requested to send a copy of any response provided in the ORCA to the Inspection Officer via email.*