

# Enbridge Northern Gateway Project Joint Review Panel

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File OF-Fac-Oil-N304-2010-01 01  
17 July 2012

Ms. Josette Wier  
4259 McCabe Road  
Smithers, BC V0J 2N7

**Northern Gateway Pipelines Inc. (Northern Gateway)  
Enbridge Northern Gateway Project Application of 27 May 2010  
Hearing Order OH-4-2011  
Notices of Motion filed by Josette Wier on 15 June, 3 July and 13 July 2012  
Rulings nos 67, 68 and 69**

On 15 June 2012, the Joint Review Panel (Panel) for the Enbridge Northern Gateway Project (Project) received Notice of Motion no. 6 from Josette Wier, requesting leave to file twenty-one (21) documents as late written evidence. The documents were released by the US National Transportation Safety Board (US Safety Board) in relation to the Enbridge pipeline spill in the Kalamazoo River, in Michigan, USA.

In the motion, Ms. Wier argued that these documents are highly relevant as they outline the factors that led to the spill as well as the problems encountered in the subsequent clean up. In Ms. Wier's view, this is a "text book case" of what could happen if oil were to spill into a watercrossing along the proposed Project route.

On 3 July 2012, Ms. Wier filed Notice of Motion no. 7 requesting that she also be granted leave to file as late evidence, the US Pipeline and Hazardous Material Safety Agency (PHMSA) Notice of Probable Violation and Proposed Civic Penalty, released 2 July 2012.

On 13 July 2012, Ms. Wier filed Notice of Motion no. 9, requesting leave to file as late evidence two further documents: (i) US Safety Board synopsis of Enbridge, Inc. Hazardous Liquid Pipeline Rupture; and (ii) Testimony of Mr. Stephen J. Wuori before the Subcommittee on Energy and the Environment Committee on Energy and Commerce U.S. House of Representatives.

When a party seeks to file evidence late, the Panel will consider whether the documents are relevant to the issues in the hearing and appropriate to be filed as late written evidence.

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Assessment Agency

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d'évaluation environnementale

Section 36 of the *National Energy Board Rules of Practice and Procedure* (Rules) sets out the general requirements for written evidence filed by parties to an oral hearing. Generally, a party must be available at the final hearings to answer any questions about the written evidence filed.

Prior to answering questions, a witness for the party must also confirm that:

- (i) the written evidence was prepared by the witness or under their direction and control; and
- (ii) the evidence is accurate to the best of their knowledge and belief.

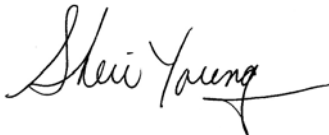
The Panel notes that none of the documents that Ms. Wier seeks to file late were prepared by her, or under her direction and control. Ms. Wier cannot answer questions about these documents or otherwise confirm their accuracy.

Accordingly, the documents that Ms. Wier seeks to file through these three motions would not constitute her written evidence. The Panel denies all motions on that basis.

The Panel notes that there are certain procedures that would allow information of this nature to be used in the oral questioning phase of the final hearings. These procedures will be addressed in an upcoming workshop regarding the final hearings, to be provided by the Process Advisory Team.

Should you have any questions, please contact Ms. Carol Hales, Legal Counsel at 403-299-3643 or 1-800-899-1265.

Yours truly,

A handwritten signature in black ink that reads "Sheri Young". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Sheri Young  
Secretary to the Joint Review Panel