

June 20, 2017

Group Legal, Americas  
Det Norske Veritas (U.S.A.), Inc.  
1400 Ravello Drive  
Katy, TX 77449

Charlie King  
Det Norske Veritas (U.S.A.), Inc.  
1400 Ravello Drive  
Katy, TX 77449

Re: Notice of Termination of August 24, 2016 Professional Services  
Contract between the State of Michigan and Det Norske Veritas  
(U.S.A.), Inc.

Dear Sirs:

The Michigan Departments of Attorney General, Environmental Quality, and Natural Resources, and the Michigan Agency for Energy (the State) hereby gives notice, pursuant to paragraph 11 of the August 24, 2016 Professional Services Contract between the State and Det Norske Veritas (U.S.A.), Inc. (DNV) that the State is terminating the Contract for cause, and that DNV should cease performance immediately. The basis for the termination is outlined below.

As you know, the State and DNV entered into the Contract to have DNV perform, on behalf of the State, an Independent Risk Analysis for the Straits Pipelines based on recommendation 2.a. in the July 2015 Report of the Michigan Petroleum Pipeline Task Force. (See Contract, Exhibit A, Statement of Work, p. 1.) A fundamental and essential feature of the project was the performance of the work in an *independent* manner, free from any potential actual or perceived influence by the operator of the Straits Pipelines, Enbridge Energy Partners, or its affiliates.

To that end, the February 22, 2016 Request for Information and proposals issued by the State required prospective contractors to provide detailed information relevant to potential actual or apparent conflicts of interests. Section III C provided:

### III-C Information Relevant to Potential Actual or Apparent Conflicts of Interest

Please provide for the organization and each proposed sub-contractor:

1. Detailed information regarding any prior, current, or anticipated future relationship with Enbridge Energy Partners, any of its affiliates, or any other entity, that could give rise to potential actual or apparent conflict of interest.

2. With respect to any information provided in response to Part III-C 1., *a detailed explanation of why an actual or apparent conflict of interest would not arise, or the measures that would be taken to avoid such a conflict.* [Emphasis added.]

In Section 8 of its April 15, 2016 response, Proposal for Independent Risk Analysis for the Straits Pipelines, DNV addressed the requirements of Section III-C, DNV disclosed that since 2013, it had previously performed projects for Enbridge and its affiliates and stated that “the quality and integrity of our work is not dependent on who our customer is.” With respect to the State’s request to identify measures DNV would take to avoid a potential actual or apparent conflict, DNV made the following commitment:

To assure that no issue arises, *no member of the project team is working or will work on projects for Enbridge during the execution of this scope.* [Emphasis added.]

This representation by DNV was highly material to the State’s decision selecting DNV as the contractor for this project.

And, most important, paragraph 18 of the Contract, “Conflicts and Ethics,” states in relevant part:

Contractor will uphold high ethical Standards and *is prohibited from:* (a) holding or acquiring an interest that would conflict with this Contract; (b) *doing anything that creates an appearance of impropriety with respect to the award of performance of the Contract . . . .* [Emphasis added.]

Unfortunately, the following circumstances establish that DNV has materially and irrevocably breached its representations and obligations quoted above. On May, 23, 2017, DNV sent an email to the State project oversight team headed "Potential Line 5 COI [conflict of interest]" in which DNV's principal Risk Analysis consultant stated "I discovered today that DNV GL Pipeline Department have undertaken a study for Enbridge that relates to [a consent decree between the United States Department of Justice and Enbridge arising from the 2010 release from Line 6b near Marshall, Michigan]." On May 24 and 25, 2017 DNV provided State staff with additional information on this subject, including the following:

- DNV GL started work on the new project for Enbridge on January 23, 2017, which involves leak detection and control room operations for various Enbridge pipelines, including, but not limited to Line 5.
- DNV GL's work for Enbridge is to run certain simulations of the pipeline operations to determine the sensitivity of its systems to detect leaks.
- The same principal DNV modeling consultant who performed the release rate simulations as part of Task A in the Statement of Work for the State's Independent Risk Analysis project "is also the simulation lead for the current project with Enbridge." He had already started work on the Enbridge project.
- DNV "informed Enbridge of the conflict and asked if Line 5 can be moved to another vendor."
- DNV was looking into the possibility of removing the principal consultant in question, and his work, from the State project.

On June 11, 2017, DNV sent an email to the State project oversight team indicating that DNV had been "looking into a solution regarding COI issues" and that "we have removed the hydrodynamic modeler from the team and that DNV "will not use anything he produced in order to mitigate any perceived COI related to the involvement in the DOJ Decree analysis. Instead we will use a simpler analytical formula for the outflow rates."

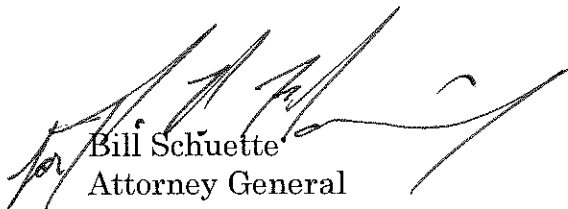
During a June 16, 2017 conference call, DNV and State project oversight team members further discussed the situation. The State team members indicated that they did not think it appropriate, at this stage of the project, to substitute the simpler analytical calculations for the hydrodynamic modeling already performed. They requested clarification of the modeler's future status on DNV projects for Enbridge. DNV sent a confirming email on June 16, 2017.

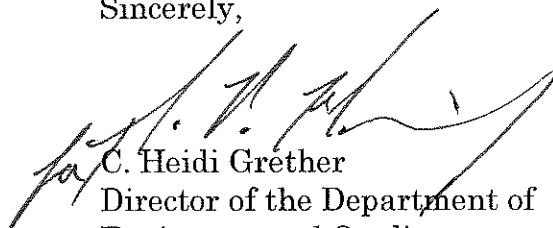
After carefully reviewing the circumstances outlined above, the State has concluded that:

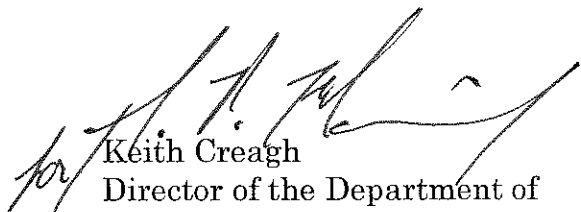
- (1) DNV's action in having a member of the team who has worked on the Independent Risk Analysis project for the State also perform work for Enbridge before the completion of the Independent Risk Analysis (a) was contrary to DNV's express representation to the State that "no member of the project team is working or will work on projects for Enbridge during the execution of this scope," and (b) violated DNV's duty under paragraph 18 of the Contract not to "do . . . anything that creates an appearance of impropriety with respect to the award of performance of the Contract."
- (2) DNV's actions in this regard give rise to the appearance of a conflict of interest that irrevocably undermines the perceived independence of its work on this project that was a fundamental and essential purpose of the Risk Analysis.

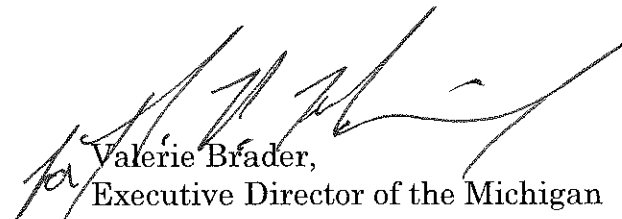
Accordingly, as indicated above, the State is terminating the contract for cause, and DNV should cease work effective immediately. If you have any questions regarding this matter, please contact the State's Project Administrator under the Contract, Assistant Attorney General Robert Reichel at (517) 373-7540 or Reichelb@michigan.gov.

Sincerely,

  
for Bill Schuette  
Attorney General  
State of Michigan

  
for C. Heidi Grether  
Director of the Department of  
Environmental Quality

  
for Keith Creagh  
Director of the Department of  
Natural Resources

  
for Valerie Brader,  
Executive Director of the Michigan  
Agency for Energy

WDS/rpr