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From: Darcie Harding
Sent: 27 July, 2012 16:38
To: DL Hearing Managers Community
Subject: FW: 12-07-27 NEB - Letter Decision, Enbridge Pipelines Inc. Line 9= Reversal Phase I Project OH-005-2011 (A43137)

Hello Hearing Managers,

Just thought I would share our noting and decision release (scroll all the way down) for the Line 9 Reversal Phase I Project OH-005-2011.

I will pass on the review and learn notes once they are available but some of the ideas are captured below.

Thanks to an awesome PWG that included a lot of extra helping hands!

Darcie

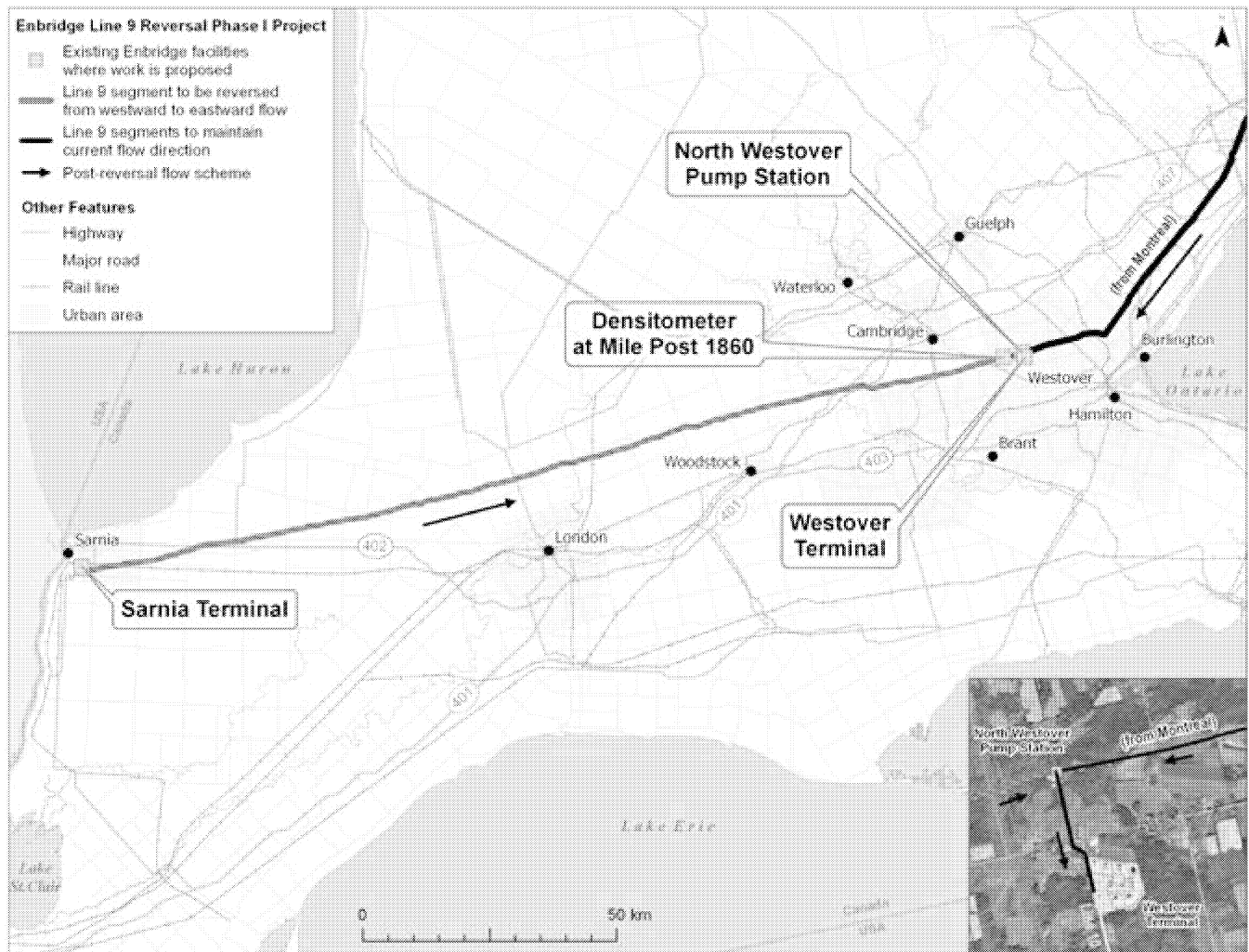
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"To be yourself in a world that is constantly trying to make you something else is the greatest accomplishment." ~Ralph Waldo Emerson

Project

- Reversal of 194 km segment of Line 9 between Sarnia Terminal (at Sarnia, Ontario) and North Westover Pump Station (near Hamilton, Ontario) to its original eastward flow.
- Offshore imports to be replaced by western Canadian and US light crude, and transported to Imperial's Nanticoke Refinery.
- Work involves additions and modifications related to pumps, piping, densitometers, valves and a pig trap at four existing, fenced and graveled industrial sites.
- All work to occur on existing Enbridge facilities and surface leases with no planned ground disturbances along the right-of-way.
- Links: Regulatory Documents ([link](#)), Project page on NEB website ([link](#)).

Project Map



Regulatory Context and Highlights

- Section 58 application.
- August/September 2011 comment period on process triggered by a letter from a group of ENGOs
- Hearing Order issued 5 December 2011
- 18 Intervenor – active participants were the Ontario Ministry of Energy, Ontario Pipeline Landowners Association (OPLA), Équiterre/Environmental Defence, Ms. Louise Lantaigne and Aamjiwnaang First Nation (AFN). Canadian Association of Energy Pipeline Landowner Associations (CAEPLA) filed written argument only.
- 13 Motions – Average time for ruling release = 3 calendar days (Table of Motions and Rulings is Appendix 3 to Letter Decision).
- 44,000 letters of comment, or signatories to letters of comment. Many were form letters.
- Significant national media attention, as well as interest south of the border. Discussed in Parliamentary Committee as well.
- CEA Act initially triggered, but once CEA Act 2012 was enacted, the Environmental Screening Report was converted to a NEB Act Environmental Assessment Report.
- Oral final argument held in London, ON, on 23 and 24 May 2012.

Main Issues

- Pipeline integrity – existing (e.g., older pipe – mid 1970s, single-layer polyethylene tape, wall thickness, known integrity features) and future (e.g., effects of pressure increases, flow reversal).

Public Concerns

- Increased risk of leaks/ruptures due to existing integrity issues, and the effects of the reversal, higher pressures and possible future changes in commodity on the pipe (with no apparent public process to assess this change).

- Leak detection and emergency response measures – comparisons to Line 6B rupture in Michigan
- Project scoping – splitting out this Project from the larger Trailbreaker (reversal of entire Line 9 discussed a few years ago).
- Potential for oil sands crude to be transported to the east coast.
- AFN – impacts on traditional use, treaty rights and health (air quality); inadequate Crown consultation.
- AFN and OPLA – Enbridge's and the Board's environmental assessments were inadequate as it failed to consider operations post-reversal.
- OPLA and CAEPLA – In-place abandonment and historical contamination.
- Ms. Louise Lantaigne – Impacts on local drinking water supplies.
- Several issues raised were determined to be out-of-scope or not relevant to the proceeding.

Conclusions

- There is a commercial need – Line 9 to Sarnia is currently under-utilized; no commercial opposition.
- Public consultation, including Aboriginal consultation, was appropriate, given the scale of the Project.
- The Project is not likely to cause significant adverse environmental effects.
- The Board's environmental assessment properly factored in line operation post-reversal.
- Crown Consultation – no other federal authorities acting as Crown; Board process used; opportunity for AFN to provide information/views and outline concerns.
- Enbridge has and continues to monitor and document line integrity; through its Integrity Management Program, it is able to identify and mitigated existing and future issues.
- Board imposed 15 conditions, mainly focused on pipeline integrity. Enbridge will not receive an exemption from Leave to Open.
- If and when Enbridge wants to ship different commodities, it would need to file a tariff amendment.
- It is in the public interest to approve the Project.

Post-Hearing Motion

- OPLA requested that the Board reopen the record to consider the US National Transportation Safety Board (NTSB) synopsis and full report for Enbridge's 2010 Line 6B rupture in Michigan.
- Ruling: the Board need not hold up its decision for the Line 6B documents to be analyzed. Through the Board's compliance activities, the NTSB report will be reviewed and pertinent learnings will be applied to system-wide operations.

Decision

21(1)(a)

- [REDACTED]

Successes / Learnings

- First time Participant Funding Program (PFP) used on a section 58 hearing:
 - PFP awarded to three Intervenor and used to create quality written evidence and IRs.
- PFP process was executed in a condensed timeframe so there was minimal delay to the hearing schedule
- First time for formal implementation of Process Advisor role:
 - Many external parties expressed that they felt well supported and that the process advisor role is a great idea.
 - Helpful to internal staff to be able to direct inquiries through to one person.
- Although the application was received in August, hearing order was not issued until December – the process from start to finish took approximately 11.5 months (including extensions granted to Enbridge to respond to IRs totaling 25 days).
- Deadlines set for external parties during the hearing process were met, despite tight timelines.
- All areas of support, PWG members and Panel made the Project a priority in order to meet the condensed schedule. 21(1)(a)
- [REDACTED]
- Having only final oral argument and no cross examination worked well in this case, due to the highly technical issues regarding engineering and integrity.
- Security and Panel handled protester disruption at hearing well:
 - After a short recess, only Intervenor and accredited media were initially permitted back in hearing room.
 - The panel accepted environmental and First Nation motions to allow people and groups, that the parties knew would not be disruptive, back into the hearing room.
 - Some media attention received.

Staff Involved