

7/27/16

From: Louise Lanteigne, 700 Star Flower Ave., Waterloo Ont. N2V 2L2  
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Re: Enbridge Pipelines Inc. ("Enbridge") Enbridge Response to National Energy Board ("NEB")  
Information Request No. 3 Line 10 Westover Segment Replacement Project ("Project") Hearing Order  
OH-001-2016 File Number OF-Fac-Oil-E101-2015-09-02

I am currently preparing a letter of comment regarding Enbridge Line 10 hearing and I have the following questions to ask of Enbridge and/or the NEB prior to submitting final comments.

1. I was reading the NEB policies for Pipeline Abandonment as seen at the NEB website here; <https://www.neb-one.gc.ca/bts/ctr/gnnb/flngmnl/fmgdb-eng.html> and I noticed the following passage under section B.1.2.2 Letter of Credit. It states the following:

*Beneficiary: The beneficiary must be identified as "Her Majesty the Queen in Right of Canada as represented by the National Energy Board"*

- a) If a Line of Credit is written to "Her Majesty the Queen in Right of Canada," who or what department has jurisdictional power to actually cash the check?
- b) If royalty changes from Queen to King do we have to augment the policy to modify the gender switch of the Monarchy?
- c) In light of Canada being independent why is the check not simply made out to the Receiver General of Canada or a Canadian based institution?
- d) If a company goes bankrupt, who is responsible to maintain the line of credit? Is policy simply abandoned or are the costs assumed by a different agency and/or taxpayers should this condition not be met?

2. On Enbridge's website specific to the Line 10 project it states the following:

*The project focuses on replacing 35 km of existing 12-inch-diameter steel pipe, installed in 1962, with new 20-inch line. By replacing this segment of Line 10 rather than applying several preventative maintenance digs, we will minimize overall disturbance to landowners along the right-of-way and the environment, address ongoing maintenance requirements and make a safe pipeline even safer. The replacement pipe will run parallel to the existing line, within the same right-of-way, for the majority of its length. Through consultation with landowners and local authorities, we are exploring re-routing the line in three areas (about 11.5 km in total, along new rights-of-way).*

It also states:

*Our regulatory application will include a detailed plan to decommission the segment of Line 10 that's to be replaced, leaving the pipe in the ground. A decommissioned line is one that is taken out of service*

*safely and permanently, but left in place while other pipelines in the same right-of-way continue to operate.*

*Leaving this segment of pipe in place is the safest and least disruptive option at our disposal – it means no additional disturbance from excavation and removal activities and less risk of future soil and slope instability, settlement and compaction issues that could compromise the safety of active pipelines sharing the right-of-way.*

Here is the website where I reviewed this information: <http://www.enbridge.com/Line-10-Westover-Segment-Replacement-Project.aspx>

When I first heard the term "replacement" I thought they would remove the old line and put in a new one at the same location but this does not appear to be the case. In light of this situation I wanted to ask the following questions:

- a) How does the NEB define the use of the term "pipeline replacement"?
- b) What is the difference between the terms pipeline Abandonment vs. Decommissioning or are they the same thing policy wise?
- c) Will changes proposed changes for Line 10 require compliance to the NEB's Pipeline Abandonment policy?

### 3. Regarding Jefferson Salamanders

The Ontario Government approved 22 source water protection plans which took effect on July 1, 2016. It protects a designated area around water intakes and municipal wells to prevent contamination issues but it does not provide protection of primary recharge areas unless they fall within close proximity to the wells and intake areas. This creates a risk because it is omitting the protection of long term water supply. The actual source water areas feeding those rivers and wells is not being reasonably protected. In response I have been advocating for the protection of Jefferson Salamanders using the Ontario Municipal Board, Part II order requests and other public processes in order to protect source water, human health and economic systems dependent on it. They are an indicator species for recharge areas.

The Jefferson salamander is currently listed as Endangered Species under the Ontario Endangered Species Act 2007. This policy outlines specific criteria for habitat protection in section 28. They are also listed as Threatened under the federal Species at Risk Act and designated as a Specially Protected Amphibian under the Ontario Fish and Wildlife Conservation Act.

Jefferson Salamanders are located along the Line 10 as verified in municipal EA reports and the Jefferson Salamander Recovery Strategy Mapping and in the terrestrial reports regarding this project.

In light of the concern, I have the following questions.

- a) Has there been any critical habitat mapping for Jefferson Salamanders in regards to this project?
- b) Will the permit requirement be mandated within conditions of approval?

Note: I have witnessed ponds where fish co-habitat with Jefferson Salamanders in the Cambridge Ontario area. The pond was very grassy and the bottom of the pool hummocky enough for the two species to thrive within the same water body. Just because a pond has fish does not rule out the presence of Jefferson Salamanders so please secure proper surveys for these animals before finalizing

plans even in ponds with fish. By protecting them we protect our source water for the long term.

4. On the Enbridge website it state the following in regards to Line 10.

Leaving this segment of pipe in place is the safest and least disruptive option at our disposal – it means no additional disturbance from excavation and removal activities and less risk of future soil and slope instability, settlement and compaction issues that could compromise the safety of active pipelines sharing the right-of-way. Independent engineering research demonstrates that decommissioned pipelines have a very long life as load-bearing structures for supporting soil and surface loads. Once disconnected from our active Line 10 pipeline system, the replaced segment will continue to be monitored by Enbridge along with the other pipelines in the right-of-way. Landowners are not responsible for any decommissioned Enbridge line – we are. Forever.

Source here; <http://www.enbridge.com/Line-10-Westover-Segment-Replacement-Project.aspx>

Here are some examples of pipeline safety issues that have already happened in the area of Line 10.

September-October 2001 — 95,000 litres of crude oil spills into a farmer's field after a leak on Enbridge's Line 10 pipeline.

October 2001 — During the cleanup from the Binbrook leak, the blade of a bulldozer strikes a rock, creating a spark that goes onto ignite some of the spilled oil. The flames were put out with a fire extinguisher.

November 2007 — A small tractor, operated by a driver contracted by Enbridge, catches fire while working on a tract of land that three of the company's pipeline's cross. The flames scorch 300 square feet of land. No one is injured and no oil is released.

February 2012 — A backhoe accidentally strikes a TransCanada pipeline running through Hamilton, causing a dent about 15 cm long, 14 cm wide and 6 cm deep. No gas escaped, and the pipe was reinforced.

In light of this concern I have the following questions.

- a) What policy exists to suggest Enbridge is responsible for decommissioned lines "forever"?
- b) Who pays for damages from decommissioned lines if a pipeline firm goes bankrupt?
- c) As of 2015 the Province of Alberta held 1.6 billion in reclamation bonds to clean up oil sands against \$21 billion in estimated clean-up costs. Alberta's auditor general raised concerns last summer that the province wasn't holding enough on the deposit. How much does Ontario hold in reclamation bonds currently and is it in debt or surplus currently?
- d) Will liability remain for pipeline firms under common law for nuisance or hazard as a result of abandoning pipelines?
- e) If the discovery of leak takes place after decommissioning, who pays for it?
- f) If property values drop due to the presence of abandoned pipelines who is liable for the lost revenues?
- g) Who pays for the loss of land use in perpetuity in areas where abandoned pipes are buried?
- h) Is there active farming taking place on top of Enbridge Line 10 currently? If so how many farms?
- i) If a farmer is driving fully loaded combine filled with grain and a pipe should break, that could kill a man. What precautions are being taken to inform farmers and new land owners of the location of abandoned pipes on their property and when a property is sold, is the risk of pipeline accidents the liability of the previous land owner or the pipeline company?

- j) Should an incident like flooding cause a legacy spill to well up and contaminate a neighbor's property, who's liable, Enbridge or the property owner?
- k) The removal of the old line can help identify areas where leaks have occurred so we can facilitate proper re-mediation strategies to protect watersheds for the long term and to protect land owners from liability risks associated with leaks that may not have been detected without the excavation process. If the NEB permits Enbridge to leave the line in, isn't the NEB assuming a liability risk by negating reasonable protection for land owner's rights?
- l) We already have extensive ILI data for Line 10 due to the previous Binbrook leak. This line has been inspected by both Enbridge and the Technical Safety Board (TSB). If we excavate the physical pipe, this can give us valuable incite on the accuracy of ILI monitoring systems and can provide data to improve overall pipeline design and safety. The TSB and Enbridge should excavate this line together in partnership with University of Waterloo, Federal and Provincial experts. The line is already in close proximity to research centers specializing in these technologies. This is a great opportunity. Would Enbridge, the NEB or the Federal government be interested in conducting such studies?

5. Omnibus Bill C-38 passed on June 13, 2012. It gave the NEB Federal jurisdiction of pipelines that cross navigable waters. The Environmental Screening Report was converted from Canadian Environmental Assessment Act (CEAA) to an NEB Act Environmental Assessment Report.

The NEB explains their Environmental Assessment process at this website; <https://www.neb-one.gc.ca/bts/nws/fqs/nvsssmntfq-eng.html#s7>

The website of the NEB states: Some Major NEB-regulated projects trigger the CEAA 2012.

In light of this information I have the following questions.

- a) What is the criteria for a National Energy Board EA report? The CEAA had policies to outline criteria but the NEB EA information is very vague and does not mention things like source water protection, seismic or geological risks or natural capital worth of ecological systems. It doesn't even mention climate change risk assessments which could alter water courses. Are these issues out of scope?
- b) What criteria determines if the CEAA 2012 is applied or not and when does it happen, before or after a hearing?
- c) Will CEAA 2012 be "triggered" for the Line 10 hearing?
- d) Who is responsible for making the decision regarding the use or exclusion of the CEAA 2012?
- e) How does the NEB define the term "Major Water Crossing" and what criteria must it meet?
- f) Does the term Major Water Crossing also apply to subsurface geological features like the Galt Paris Moraine?
- g) Should a spill occur in proximity to areas with Karst hydrological features what techniques are typically used to recover and remove oil?
- h) Is an oil spill clean up recovery of 8-10% considered a successful process? What is the criteria for a successful spills recovery effort?

6. Ontario's Ministry of the Environment has ordered the Westover site to obtain permits for air emissions and stormwater discharge back in July 2013. Was that ever completed? If so, when?

7. The NEB issued warnings about substandard EZFlow and Canadoil Asia fittings. Have any of these been used on Enbridge Line 10, 11 or at the Westover terminal and if so, have the faulty components been replaced? If so, when?

8. According to government documents, inspectors from the federal government inspected pipeline terminals in Edmonton, Westover and Sarnia in 2011. Investigators discovered insufficient emergency shut-down systems and emergency back-up power generators in the event of an accident. Were these issues ever resolved fully? If so, when?

9. With the Binbrook leak, the control centre operator in Edmonton, Alberta, responsible for Line 10 operations did not receive programmable logical controller communications with failure alarm through the supervisory control and data acquisition (SCADA) system, since Tonawanda had not been configured to generate such an alarm. This created a delay. I notice the line had manual valves in a couple of areas. Have these issues been resolved fully? If so when?

10. The original permit for Line 10 was made out to Interprovincial Pipeline Inc. Has there ever been a formal transfer of assets done for this line in compliance with section 74 of the NEB Act? Who owns the pipeline currently, is it Enbridge Inc., Enbridge Pipeline Inc. or Enbridge Income Fund Ltd? I ask this because these are separate companies by law, with separate boards of directors and I want to know exactly who owns this pipe.

When Enbridge states they are responsible for the pipeline forever, which specific legal company are they referring to?

Thank you kindly for your time.

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