08/09/2016

Hearing Order OH-001-2016 re; Enbridge Pipelines Inc.
Line 10 Westover Segment Replacement Project
Re: Letter of Comment by Louisette Lanteigne
700 Star Flower Ave. Waterloo Ont. N2V 2L2

Affidavit of Louisette Lanteigne

I Louisette Lanteigne of the City of Waterloo in the Region of Waterloo in Ontario MAKE OATH AND SAY:

1. I am a resident of Waterloo Ontario. I am a Mi'kmaq Acadian Metis water advocate who has been actively involved with protection of the environment since 2002 as a concerned citizen. I have years of experience raising concerns using public processes afforded to me by local, provincial and federal governments to help protect communities, water supplies, prevent pollution and to protect habitats of endangered species.

2. I have initiated an Ontario Municipal Board process and secured concessions to protect water supplies and Jefferson Salamander habitat with OMB appeal PL071044. I have secured concessions with Part II order requests for Hidden Valley in Kitchener Ontario and Barrie's Lake in Cambridge Ontario to protect municipal groundwater and endangered species habitats, including Jefferson Salamanders, at these locations. It is reasonable to state I have direct experience in advocating for the protection of Jefferson salamanders in Ontario.

3. I initiated an Environmental Bill of Rights review for a Waterloo Moraine Act in 2006 which secured an Ontario Ministry of Environment report about the state of current knowledge for both the Waterloo Moraine and Galt Paris Moraine systems. The findings have relevance to the lands where Line 10 crosses.

4. As a result of the successful advocacy, I was the subject of several master's thesis at the University of Waterloo and Wilfrid Laurier and have been a guest speaker at various universities and public events discussing effective environmental advocacy and source water protection issues. My work stored in the Archives of Wilfrid Laurier University.

Regarding Jefferson Salamanders:

5. I observed that Jefferson salamanders are located along the route of Enbridge Line 10 as confirmed by the mapping in the *Jefferson Salamander Recovery Strategy*. See **Attachment 1, page 15 of the PDF document/page 7 of the report** as seen in the illustration titled *Figure 2. Documented Locations of Ambystoma jeffersonianum in Ontario*.

6. I observed that Jefferson Salamanders in proximity to Line 10 are confirmed in mapping created by the Ontario Natural Heritage Information Centre as of February 29, 2012. See **Attachment 2**.

7. I observed that in the *Line 11 Westover Segment Replacement Project, Enbridge Responses to NEB IR No. 2 File OF-Fac-Oil-E101-2014-01-01* is specific to Jefferson Salamanders. Line 11 shares the right of way of Line 10 so this data has relevance. In **Attachment 3 page 1, under Preamble, second paragraph** it states the following passage:

> *In its evaluation of likelihood of occurrence of species at risk (Reference ii), Enbridge states that species-specific surveys for Jefferson Salamander were not conducted but that potential habitat exists in the study area in the form of deciduous swamps and fresh moist thick canopied forests. Enbridge further states that impacts to this species are not likely to occur as potential habitat areas are being avoided. Based on this evaluation, Enbridge did not carry forward an environmental assessment of Jefferson Salamander.*

8. I observed that the Committee on the Status of Species at Risk in Ontario (COSSARO) listed Jefferson Salamanders as being Endangered in their final report dated February 2011. **Attachment 4, Page 4 section 6 states:**

> *6. Ontario Decline Threatened. Of 87 sites from which salamanders of the Jeffersonianum complex have been recorded, only 33 have been confirmed to have A. jeffersonianum (JJ) or unisexuals (LJJ) over the past decade. Assuming all 33 locations have pure Jefferson Salamanders (JJ), then the decline over the past three generations (~33 years) is 60%. However, other samples from ponds known to have pure Jefferson Salamanders suggest the decline is higher (COSEWIC 2010 in press). Repeat surveys over a 15- year timeframe (1990-2005) revealed that most populations were declining and some were extirpated. For example, surveys of 18 historically known breeding sites along the Niagara Escarpment that were documented in 1990-91 revealed only 3 sites that were confirmed to still be supporting A. jeffersonianum populations in 2003-04 (COSEWIC 2010, in press), an apparent decline of 83%.*

9. I observed that in **Attachment 4 section 7** it states:

> *7. Ontario's Conservation Responsibility **Not in any category**. Ontario has less than 10% of global range, albeit the most interesting 10%*

10. There is no information to indicate why Ontario's Jefferson Salamander population is deemed "the most interesting 10%".

11. **On Attachment 4 page 5 in section 4** it states:

> 4. Specialized Life History or Habitat-use Characteristics Endangered. Jefferson Salamanders require temporary, fishless ponds to breed and an extensive surrounding moist deciduous forest for other activities.

12. I spoke with the The Grand River Conservation Authority (GRCA) about the two salamanders seen in **Attachment 5.** They were found by Barrie's Lake in Cambridge Ontario. Barrie's Lake is known to contain both Jefferson Salamanders and fish as confirmed to me by the GRCA and in numerous EA reports that I witnessed**.**

13. Attachment 6 is a photo of Barrie's Lake. The thick grasses and hummocky pond serves to isolate fish from salamanders within the same shared water body. This kind of habitat may exists around the area of Line 10 so please secure studies for salamanders even on ponds with fish in this area.

14. The Jefferson Salamander is listed as Endangered in the Species At Risk in Ontario List, O Reg 230/08, under the Act. A description of the habitat of the Jefferson Salamander is provided in the Regulations General under the Act. It states the following with specificity to Hamilton:

Jefferson salamander habitat

28. For the purpose of clause (a) of the definition of "habitat" in subsection 2 (1) of the Act, the following areas are prescribed as the habitat of the Jefferson salamander:

1. In the City of Hamilton, the counties of Brant, Dufferin, Elgin, Grey, Haldimand, Norfolk and Wellington and the regional municipalities of Halton, Niagara, Peel, Waterloo and York,

i. a wetland, pond or vernal or other temporary pool that is being used by a Jefferson salamander or Jefferson dominated polyploid or was used by a Jefferson salamander or Jefferson dominated polyploid at any time during the previous five years,

ii. an area that is within 300 metres of a wetland, pond or vernal or other temporary pool described in subparagraph i and that provides suitable foraging, dispersal, migration or hibernation conditions for Jefferson salamanders or Jefferson dominated polyploids,

iii. a wetland, pond or vernal or other temporary pool that,

A. would provide suitable breeding conditions for Jefferson salamanders or Jefferson dominated polyploids,

B. is within one kilometre of an area described in subparagraph i, and

C. is connected to the area described in subparagraph i by an area described in subparagraph iv, and

iv. an area that provides suitable conditions for Jefferson salamanders or Jefferson dominated polyploids to disperse and is within one kilometre of an area described in subparagraph i. O. Reg. 436/09, s. 1.

15. I spoke with Senior MNR policy adviser Gail Jackson on October 6, 2011 in a telephone conversation in order to better understand the policies to protect Jefferson Salamanders. **Attachment 7** are the notes I took from that conversation. It states:

The Endangered Species Act 2007 applies to any activity that poses an immediate threat to threatened or endangered species and their habitats. Projects cannot be "grandfathered" to avoid it and the most current version of the law stands.

The Endangered Species Act demands that there must be a net benefit for the species. If one is killed, they must be replaced by two or more live specimens per kill and they must expand on the delineated protected habitat area to assure the improved survival rates of the remaining specimens in the area.

A single application can take up to 7 years before a permit is issued. It must be signed three times by various review agencies including MNR staff, the deputy minister, the MNR ministers and others.

Prior to the issuance of permit the request be posted on the Environmental Bill of Rights Registry for public comment. ALL alternative designs submitted by city planners, developers and the public can be reviewed at this phase and the decision that best balances needs of the threatened/endangered species and planning needs can be implemented. If there is no reasonable way to secure a net benefit of the species, the request will be denied

16. To date I have not seen any evidence to suggest that critical habitat mapping has taken place for any of the known Jefferson Salamander populations along Line 10 nor have I seen any Jefferson Salamander recovery strategies planned or permit requests listed for this project on the Environmental Registry. In light of these concerns I respectfully request that such provisions be included as a condition of approval.

Regarding Geological Risks:

17. In 2006 I initiated an Environmental Bill of Rights review to assess the need for a Waterloo Moraine Act. It was paired with a similar request submitted by Liz Sandals in Guelph calling for a review of the Galt-Paris Moriane. The requests resulted I a single report titled; *Review of the State of Knowledge for the Waterloo and Paris/Galt Moraines*. It was prepared for: Land and Water Policy Branch Ministry of the Environment Prepared by: Blackport Hydrogeology Inc. Blackport and Associates Ltd. and AquaResource Inc. See **Attachment 8**.

18. **Attachment 8 page 8 of the PDF/page 1 of the report in section 1.2** Study Objectives states:

> The primary objective of the overall review, as outlined in the RFR, is to provide background information on the state of knowledge of the general physical conditions and hydrologic functions of the Waterloo and Paris/ Galt Moraines. The objectives of the RFR review are to:
> • summarize the state of hydrogeologic knowledge and determine gaps, if any, which would be required to be filled to enable policy to protect the Waterloo and Paris/ Galt Moraines;
> • provide an overview of current and potential threats and impacts on the hydrologic functions of the moraines; and,
> • review the best management practices and mitigative measures to protect moraine functions.
> A report is to be prepared that will identify if there are information gaps

in the current understanding of:
• the groundwater recharge, discharge and storage functions of each moraine;
• the linkage of moraine functions to surface water quality and quantity functions; and,
• current and potential threats to the moraine functions from urban and industrial development, aggregate operations, transportation, agriculture, and climate change.
This background report will be used by the MOE to determine whether these information gaps are sufficient to impede adequate policy protection of the moraines.

19. **Attachment 8, page 10 of the PDF/page 3 of the report, in 1.3.2** Paris and Galt Moraines it states Hamilton was within the area of review:

> The Paris/ Galt Moraine system extends across the upper tier municipalities of Peel, Halton, Wellington, Waterloo, Brant and Norfolk and the Cities of Guelph and Cambridge. It is found within parts of four subwatersheds in the Credit River watershed (CVC), six subwatersheds in the Grand River Watershed (GRCA) and several smaller subwatersheds within the jurisdiction of the Hamilton, Halton and Long Point Conservation Authorities.

20. The report included a review of Climate Change issues in **Attachment 8 page 47 of the PDF/ page 40 of the report in section 4.5**. The report states:

> The following presents a general summary of potential impacts and issues related to water resources and climate change that could be occur in southern Ontario:
>
> Surface Water - Water Quantity and Water Supply
> -Summer flows are expected to decline, which will impact the assimilative capacity of the receiving streams or rivers (e.g. the Grand River).
> -The magnitude of spring flooding will likely decline, however increased winter flows will increase the risk of severe flooding in the winter.
> -There will be increased property damage due to increased flooding during both winter/spring melt events and severe summer storms.

21. Knowing the risks of winter flood events I was concerned about the effectiveness of booms so I read reports on the topic and found a report titled *Advancing Oil Spills Response in Ice Covered Waters* produced by the Prince William Sound Oil Spill Recovery Institute Cordova, Alaska and the United States Arctic Research Commission Arlington, Virginia and Anchorage, Alaska. On **Attachment 9 page 13 of the PDF/page 8 of the report** it states the following:

> *Conventional booms will quickly collect ice and subsequently lose oil as the flotation chambers are submerged or lifted out of the water.*

22. In light of that passage I would like to request a spills test in winter to assess response times and spills protocols and to examine the effectiveness of booms and equipment in cold temperatures with icy waters.

23. *The state of knowledge of the Waterloo and Galt Paris Moraine systems* identified the fact that more data was needed to fully understand the characteristics and risks for these specific areas so the Environmental Bill of Rights process helped to identify the data gaps that could now be investigated

using the Source Water Protection Act, other policies and further geological analysis.

24. **Attachment 10** is a report titled *Buried bedrock valleys and glacial and subglacial meltwater erosion in Southern Ontario Canada* produced by Cunhai Gao of the Ontario Geological Survey. It features a bedrock valley systems known as the Dundas Valley that exists from Copetown Ont. to Lake Ontario and chronicles scientific understanding of the geology of this feature from 1900's to current knowledge.

25. In **Attachment 10/page 10 of the PDF** features illustration *Fig. 7. Moraines and eskers in southern Ontario, formed during the Late Wisconsinan*. You can see the Dundas Valley from Copetown to Hamilton.

26. In **Attachment 10/page 12 of the PDF** features detailed mapping of the Dundas Valley in the lower photo showing the area between Copetown to Hamilton. The sediment and waters flowed to Lake Ontario along that line.

27. **Attachment 10 Page 16 of the PDF end of the second paragraph** states:

> *The Dundas Valley is the westward extension of the Lake Ontario Basin, resulting from glacial to subglacial meltwater erosion. This is evidenced by the valley infill consisting of glacial and related deposits of the Wisconsinan.*

28. ***Attachment 11*** is the results of a Mapquest search for Copetown Ontario. It shows the intersection of Governors Road and Hwy 52. I include both the Aerial view and illustrated view as well as a map of Line 10 to show the pipeline's proximity to the Dundas Valley geological formation. The mark on the map is the nearest intersection but the pipe is in the Hydro corridor just to the west.

29. **Attachment 12** is the original map used for the first approval of the pipeline.

30. **Attachment 13** is the Source Water Protection Act mapping illustrating the vulnerable aquifers around Halton Region and Hamilton Region titled *Figure 6.4 Highly Vulnerable Aquifers (HVA).* The Westover terminal and portions of Line 10 are located in areas identified as Highly Vulnerable Aquifers.

31. **Attachment 14** is a report titled S*pills Scenario Modelling for Lake Ontario Intakes, Halton-Hamilton Focus* prepared by Modelling Surface Water Ltd., 2011. It served as an Assessment report for five Source Water Protection Areas under the Clean Water Act including Niagara, Halton-Hamilton, CTC which includes Credit Valley, Toronto and Region and central Lake Ontario, TCC which is the Trent Conservation Coalition which includes Ganaraska Region, Otonabee- Peterborough, Kawartha-Haliburton, Crowe Valley along with Lower Trent as finally, Quinte. The findings in this report has implications for all these communities.

32. **In Attachment 14 page 18 of the PDF/ page 1-3 of the report, section 1.2.6** Lake Hydrodynamics and Heat Exchange identifies that the major force function used to drive currents in Lake Ontario is wind stress.

33. **Attachment 14 page 19 of the PDF/page 1-4 of the report** illustrates how contaminates simply do not flow in a linear manner from one end of the lake out the St. Lawrence but they are subject to currents governed by water temperatures, wind and the influence of shorelines and depth of water. Some spills if discharged can travel downstream and loop back in again upstream creating risks for municipal intakes.

34. **Attachment 14 page 99 of the PDF/ page 6-17 of the report Section 6** is modelling various spills scenarios involving benzene, a chemical found in petrochemical products. Analysis was done simulating spills around the Hamilton area to assess how long it would take for a spill to reach various water intakes of communities along Lake Ontario. It is applicable to this hearing because a spill in the Copetown area's Dundas Valley would likely send contaminates towards Lake Ontario.

Regarding Seismic Risks:

35. *Earthquaketrack.com* is a website where people can do a quick search to review previous seismic activities of a given area. I did a search for Hamilton Ontario and found the data as seen in **Attachment 15** showing seismic events in proximity to Enbridge Line 10 and Westover. This is the screen shot of the site when I saw it on Friday August 5, 2016 and **Attachment 16** is the print out version showing the coordinates of the events using data from the US Geological Survey.

36. **Attachment 17** is the report titled OPG's Deep Geologic Repository for Low to Intermediate Level Waste Seismic Hazard Assessment published on March 2011 Prepared by: AMEC Geomatrix, Inc. **Page 54 of the PDF/page 36 of the report Figure 2.21**: Structural Subdivisions of Precambrian Basement with Faults, Aeromagnetic Lineaments and Lithotectonic Domain Boundaries illustrates the various fault lines located in the area of Line 10 and the Westover terminal.

37. **Attachment 17 page 42 of the PDF/page 24 of the report** shows how areas of the Central Metasedimentary Belt boundary tectonic zone; MD - Mississauga domain are located in proximity to Line 10. This fault line was part of the cold-joint megathurst which helped form the cliffs of the Niagara Escarpment.

38. **Attachment 17 on page 56-57 of the PDF/page 38 of the report** last paragraph states:

> Structural features that could be possible seismic sources have been investigated and are incorporated into the seismic hazard analysis for the Bruce nuclear. These sources, which include the Grenville Front tectonic zone, Georgian Bay linear zone, Niagara-Pickering linear zone, Clarendon-Linden fault system and Hamilton-Presqu’ile lineament (Figure 2.22), described in Section 3.3.

39. **Attachment 17 page 57 of the PDF/page 39 of the report, figure 2.22** the Hamilton Presqu'ile lineament appears to lines up with the geological feature known as the Dundas Valley.

40. **Attachment 18** is a map from the Ontario Geological Survey titled *Southern Ontario Karst* which illustrates Karst in proximity to Westover terminal and Line 10. The drumlins of the Paris Galt Moraine are known for Karst features which are caves created by the dissolution of soluble rocks like limestone, dolomite and gypsum.

41. **Attachment 19** is information from the US Geological Survey on the risks of Sinkholes. It shows what happens when Karst collapses. It is a risk to consider in the area of this pipeline and Westover terminal.

42. In **Attachment 11,** there is a Google Earth view of the intersection of Governors road and Hwy 52 in Copetown. There are kettle ponds in proximity to Line 10.

43. I researched the Ontario Geological Survey's Karst Data in GIS format and took took screen shots of the Westover terminal as seen in **Attachment 20**. The oil terminal is sitting on confirmed Karst as indicated in Red, with possible Karst located in the yellow zones. When you click on the colored fields the image shows the Google Earth view of what exists in those areas. It confirms the terminal and pipelines are located on top of Karst.

44. In the report *Shake Out Scenario Supplemental Study Oil and Gas Pipelines* prepared for the USGS and California Geological Survey as written by Dan Ballantyne I observe on **Attachment 21 page 5 of the PDF/page 4 of the report** that states:

> *Historically, steel pipelines with high quality electric arc welded joints perform very well in this shaking environment. Pipelines with joints using oxy-acetylene welds can have failure rates nearly 100 times greater than those with electric arc welded joints.*

45. Seismic activities are not limited to earthquakes alone. It can come from traffic over a pipeline or farm machinery over a field or quarry pit activities nearby. It can even come from the flow of bitumen because the mass of the substance in the pipe is not necessarily uniform due to the varying presence of sediment in the product. Anything that can shake a pipe can stress welding over time.

46. Understanding the geological characteristics of this area, arc welds should be mandatory for the pipeline and infrastructure at the terminal and pumping stations too as a precautionary approach.

47. **Attachment 22** is a document titled *Enbridge's Intelligent Valve Placement* system information.

48. In **Attachment 22 page 2, the section titled: Single Sided Valley** states: '

> *In this scenario, an isolation valve is placed on the left side of the body of water. **1** However, on the right side of the body of water,**2** oil would drain downhill away from the body of water, and a valve would provide no isolation benefit. A valve would be more optimally placed downstream, closer to any water bodies or HCAs.*

49. The characteristics of Outwash Moraine systems include a water body on one side followed by a peak and then a long gradual hill slope, not unlike the photo as seen in the example of a Single Sided Valley.

50. In an outwash moriane, The pool of water is where the glacier melted in it's last stage when it was smaller but the nearby peak represents the edge of the same glacier when it was very big. As the big glacier melted, it washed off sediment and water in wave like formations like the ripples you see at a beach along the water's edge. In an outwash moriane you can do bore hole studies and the slope and it may appear all clay covered, but with ground penetrating radar it reveals gaps where water enters into the aquifer. The shingles are not laid out evenly. Sometimes they are missing. At the Arkell Research Centre in Guelph has a hill slope gathering 7% of Guelph's groundwater supply. Just because it's a slope doesn't mean it's not primary recharge. See **Attachment 23**.

51. Beyond the scope of basic topography, *Enbridge's Intelligent Valve Placement* appears to have no regard for geology, sediment types or the glacial activity that formed the topography. There is no regard for wells or source water protection legislation. To plan and place valves on the assumption that slopes and water bodies are all impervious is not reasonable. It is an outdated logic and a dangerous way to plan a pipeline.

52.The valve placement locations should be assessed on an ongoing basis because over time, circumstances that warranted the valves original placement can change. The characteristics of water channels changes as cities grow because higher stormwater runoff widens channels. Climate change can produce more storm runoff too. The pre-development data that was used 30 years back might not apply today so please include a review of valve placement and make sure it is up to code as a condition of draft approval.

53. Government agencies have identified geological risks located in the area of Line 10, 11 and Westover but should an earthquake happen, who pays for it and can we afford that kind of compensation? I include **Attachment 24** which is a CBC article titled *Major quake could pose systemic risk to Canada's financial sector* published on Aug 3, 2016. It states in the first and second paragraph:

> *A major earthquake could pose a serious risk to Canada's economy, says a new report from the C.D. Howe Institute that calls for action to bolster the financial system so it could better handle the aftermath of such a disaster.*
>
> *Canada's property and casualty insurers could handle claims totaling up to $30 billion, says the report's author, Nick Le Pan. Beyond that, "the catastrophic losses would exceed the existing capacity of Canada's insurance industry," Le Pan says.*

54. **Attachment 25** is the Safety and Security of Energy Pipelines in Canada: A Report to Ministers Energy and Mines Ministers' Conference Sudbury, Ontario August 2014. On **Page 65 of the PDF/page 60 of the report it** states in a section specific to Ontario, the following:

> *There is no independent financial backstop in the event a company is unable to pay for the costs of an incident.*

55. On August 8 2016, I was editing this Affidavit when out of curiosity, I visited the *Earthquaketrack.com* website and did a quick search for seismic events in the Toronto area. That is when I found out there was an earthquake on Friday Aug.5 2015 at the same time I was writing about the seismic risk. See **Attachment 26** for

screenshot I took from Earthquaketrack.com of this event. The Earthquake was measured at 1.8, and was located 14 km south of St. Catherine's Ontario in Lake Ontario in an area that appears to be along the Hamilton-Presqu'ile fault as seen in **Attachment 17 on page 56-57.**

Regarding Engineering and compliance issues

56. **Attachment 27** is the document *Enbridge Pipelines Inc. Line 11 Westover Segment Replacement Project's Leave to Open Application January 28, 2015.* In this report it states on **page 8 Table 3-2**: Fitting Test Summary, that the fittings used are manufactured by Ezeflow.

57. The NEB issued warnings about substandard EZFlow and Canadoil Asia fittings as seen in **Attachment 28.** If the flawed fittings are on Line 10, Line 11 or Westover I would like to secure their removal as a condition of approval.

58. A news article titled *Enbridge pumping stations not up to code*: NEB By Vincent McDermott was published on April 8, 2013 in Fort McMurray Today. See **Attachment 29**. The article states on page one the following;

> *The National Energy Board is warning Calgary based Enbridge Inc. that 118 pumping stations do not meet federal safety standards and the company has until April 15 to create a corrective action plan.*
> *According to government documents, inspectors from the federal government inspected pipeline terminals in Edmonton, Westover and Sarnia in 2011, Investigators discovered insufficient emergency shutdown systems and emergency backup power generators in the event of an accident.*
>
> *Pumping Stations provide power to move liquids such as crude oil or diluted bitumen through a pipeline network.*
>
> *As a response Enbridge promised to address the problem by October 12 2012. When the deadline approached, however, the company set the NEB a letter stating it needed more time to develop an appropriate action plan. In a letter dated March 15, the company was granted more time to develop an appropriate action plan. In a letter dated March 15, the company was granted an extension to April 15.*

59. Has the Applicant finished installing their backup power generators? Have they completed the work to make sure their emergency shutdown systems are fully functional and compliant at Westover? If not make it a condition of approval.

60. The Hamilton Spectator published an article titled *Enbridge missing two key permits for Westover* site written by Joan Walters published July 24, 2013. See **Attachment 30 half way down page one**, it states:

> *Enbridge Pipeline Inc. - the company responsible for the largest onshore oil spill in the United States history – has been told by Ontario regulators it is missing two key environmental permits at it's Flamborough operation.*
>
> *Ontario's Ministry of the Environment has ordered the Westover site – main pumping station for the company's controversial Line 9B – to obtain permits for air emissions and storm water discharge, a procedure Enbridge says it has already started.*

61. Has the Applicant completed the permit applications for air emissions and storm water drainage for the Westover site? If not, make it a condition of approval.

62. CBC Hamilton published a special report titled *Hamilton second in Ontario in Pipeline Safety Incidents* by Cory Ruf and Amber Hildebrandt of CBC News published October 28, 2013. The article states in **Attachment 31 first paragraph**:

> *Hamilton experienced nine safety incidents on its major oil and gas pipelines in just over a decade, second in Ontario only to the 10 recorded in Sarnia.*

63. Attachment 30 lists pipeline incidents in Hamilton from 2000 to 2012 on the last page and it reads as follows:

Safety-related pipeline incidents in Hamilton from 2000-2012

- ***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.*
- ***December 2005*** *— A faulty valve at an Ancaster station on a TransCanada pipeline causes natural gas to leak into the air for 45 minutes.*
- ***May 2007*** *— While crews were doing repairs on TransCanada's Ancaster Compressor Station, a pressure regulator blew up. The shrapnel damaged other equipment, but no one was injured and no gas was released.*
- ***November 2007*** *— A small tractor, operated by a driver contracted by, 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.*
- ***April 2009*** *— Workers discover a broken steel pipe on a filter on a TransCanada natural gas pipeline.*
- ***April 2010*** *— A faulty valve on a TransCanada's Ancaster Compressor Station causes 100,000 litres of natural gas to escape into the atmosphere.*
- ***May 2011*** *— A small fire emanates from a pipe at TransCanada's Hamilton Gate Sales Meter Station. It was quickly extinguished, and no one was injured.*
- ***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.*
-

64. **Attachment 32** is *Transportation and Safety Board of Canada's Pipeline Investigation Report P01H0049 Crude Oil Pipeline Rupture, Enbridge Pipeline Inc. 508-Millimeter Line 10, Mile post 1885.64 near Binbrook Ontario 29 September 2001*.

65. **Attachment 32** page 6 of the PDF/5 of the report it states;

Findings as to Causes and Contributing Factors

1. The tape coating disbonded in the vicinity of the failure, possibly exacerbated by the presence of wooden skids under the pipe.

2. The disbonded coating shielded the pipe from the cathodic protection current and allowed a corrosive environment to contact the pipe metal.

3. In 1990, the corrosion defect at MP 1885.64 was probably 40 to 45 per cent through wall but was not identified in the 1990 in-line inspection (ILI) vendor's final report and was therefore not repaired at the time.

4. During the subsequent 11 years, corrosion continued until the wall had thinned to 16 per cent of its original thickness and the pipe wall could no longer support the stresses associated with the internal operating pressure.

5. Because Enbridge had not fully appreciated the effect of echo loss in interpreting metal loss due to external corrosion, Enbridge did not select the failure site following the 2000 metal loss ILI as one requiring immediate attention.

Findings as to Risk
1. A better understanding is needed by the pipeline industry of the effect that echo loss has on wall thickness measurements for internal corrosion with sedimentation and deep external corrosion.

Other Findings
1. The programmable logic controller communications failure at Tonawanda did not contribute to the rupture at MP 1885.64 but did make it impossible for the control centre operator to know the status of that station during the initial response to the leak situation.

66. Why was a pipe installed with a wooden skid underneath? Is there a geological reason why structural support may have been needed for the pipe in this area and how secure are the remaining lines in this zone currently?

67. Why is ILI still considered a reliable way to test the pipe when issues such as external corrosion are being missed even to a depth of 40-45%? Does ILI have the ability to spot cracks and crack cluster on the outside of the line or can it view the current condition of the welding on this old pipe? How do we check for those kinds of issues?

68. Has the communications system at Tonawanda been replaced with a fully functional system of communication with the Edmonton control centre? If not make it a condition of approval.

Personal Site Visit Aug. 4/2016

69. The Applicant has a website specific to the Line 10 project in **Attachment 33**. It states in the 7th paragraph:

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. Independent engineering research demonstrates that decommissioned pipelines have a very long life as load-bearing structures for supporting soil and surface loads.

70. The Applicant's website as seen in **Attachment 33** shows no mention of the word pipeline abandonment. They reference the term decommission.

71. There is no mention of the term decommission in the NEB Act. The NEB Act uses the term pipeline abandonment which fits the description of what Enbridge is trying to do with sections of Line 10.

72. On August the 4th, 2016 I drove to Copetown, where Hwy 52 meets Governors Road. I went to the area of the Hydro corridor just to the west of the intersection along Governor's Rd. I then traveled north to look at all the points where high pressure oil and gas pipelines cross the area. I wanted to understand the land and how people behave currently in proximity to the pipe that is to be abandoned. See **Attachment 34**.

73. In **Attachment 34 page 1** you will see an area where two high pressure natural gas lines sit directly adjacent to a high pressure oil pipeline, and based on the markers above the ground, they are all located side by side all within a five to 6 foot width. I believe this oil pipe is Line 10.

74. In my view, it would be costly to remove the oil pipe as seen in **Attachment 34 page 1** without disrupting the support for the two TransCanada gas lines that are directly next to it but leaving this pipe in place does not negate the risks. Here are some of the risks I identified at this point:

1. Corrosion of the exterior of the decommissioned oil line can lead to flakes of metal being released that could scrape or wearing against the gas lines.

2.With farming and Highways directly over the line, the aging oil pipeline could collapse altering the support for the two gas lines in a sudden uncontrolled manner causing leaks or rupture.

3.Because this area is crossing recharge, heavy flooding could erode structural support for any one these lines augmenting the support for the other two.

4. If there is a leak or spill happening at this point, extraction with heavy machinery could scrape against metal fragments of the aging oil pipe causing

a spark and risk of fire or explosion.

75 In my view it would be safer to remove the old pipe in a controlled manner and replace the sediment around the pipe with clean fill free of metal shards to help protect those two remaining gas lines.

76. I witnessed farming activity with heavy machinery and saw corn and soy crops planted on top of the high pressure oil and gas lines as seen in **Attachment 34 pages 4, 8 and 10** and the placement of fence posts, trees and a man made pond with fountain over top of high pressure oil and gas lines in **pages 5 and 9** to show that the call before you dig program might not always work.

77. The call before you dig phone number I witnessed on high pressure oil pipeline signs that had the word Enbridge on it, states the call before you dig phone number is 1-800-400-2255 which is very good because it is linked to the centralized system being used in Ontario to provide comprehensive data on where it is safe to dig. I want to thank Enbridge for that because this centralized number is a great idea to improve safety for everybody while reducing overall costs for companies.

78. The signs for the Sarnia Products High Pressure Pipelines stated the call before you dig number is is 1-888-242-6660 so I called that number and got Sarnia Products Pipeline's automated answer system but it did not state the term “call before you dig” among the choices of extensions to select. That may confuse some people. They did say press 1 for the term “pipeline locates” so I pressed it and got an answering machine response to leave a message because the person was not there. So I hung up and tried again and sought assistance. I asked the operator if their company's information is included with Ontario's centralized call before you dig and they said yes.

79. I would like the board to issue an order that mandates that all new signs along the right of way display the Ontario centralized call before you dig phone number because consistency means safety. It is easier to secure the desired public behavior with one single number. The safety of all the pipes sharing the same right of way improves when there is consistency with that number.

80. The high pressure gas lines of TransCanada that I saw in Attachment 34 states *call before you dig* but did not provide any phone number specific for that purpose so I would this hearing to facilitate the placement of that Ontario call before you dig number on their signs.

81. We need to secure review of the signs and their placement to make sure they are viable and not blocked with phragmites, trees or other things that can block their view otherwise they will not serve the function for which they were designed. They are there to warn people but it will not do the job unless they can seen. See Attachment 34 page 3.

82. I noticed that signs produced by TransCanada were the only bilingual ones I saw in the Right of Way area. All the Enbridge and Sarnia Products Pipeline signs along with Esso and Imperial Oil were in English. I observed a sign near the valves off Hwy that indicate the presence of sealed radioactive Cesium 137 written in English but with only one single French word which was Rayonnement which means radiation. It is reasonable to state it would not inform a French speaking person the same way as it informs an English person. Why isn't it bilingual?

83. Here is a photo of the radioactive sign that I saw at the location of the manual valves off Hwy 8 in Hydro Corridor in the Copetown area. It shows the lack of French words to inform of the risks.

84. A**ttachment 34 pages 11 and 12** I witnessed a manual valve system for High Pressure oil pipeline off Hwy 8 in the Hydro Corridor around Copetown and noticed there was no lighting, generator or visible electrical outlets in the area nor was there any security systems to prevent tampering other than a chain link fence and chain around the valves. There was no building for this unit, no video or surveillance system or fire extinguisher or fire hydrant that I could see within this area. I saw a very small satellite dish but I don't know it's function and I don't know if it is hooked up to anything.

85. **Attachment 34 page 6 and 7** are photos of a monitoring device for corrosion placed near a large tree by a high pressure oil pipeline that I witnessed. I took the photo to get the name on the testing device.

86. The next day as I zoomed in to view the photo, I noticed one of the plugs did not appear properly plugged in. The other plug appears to have some exposed wire at the base. Based on the photos it also appeared the screws on the machine may be mismatched but it could be due to the lighting of the photo. Either way it would be good for monitoring systems to go through periodic inspections to make sure they are still in good working order. I don't know if it is a policy or not but if it isn't I'd like to recommend it. See **Attachment 34 page 5, 6 and 7**.

Change of ownership and avoidance of mentioning registered corporate names

87. I did a Google search for Sarnia Products Pipeline to read about this company and that is when I saw the corporate name Imperial Oil Ltd Sarnia Products Pipe Line. If you view **Attachment 34 pages 1,2,3,4 and 10** you will not see clear use of the words Imperial Oil Ltd. We need the legal names of the registered companies who own these pipes posted clearly on the signs so people know who owns them. Logos and brand names are products of a company whereas registered names are identities of the actual owners. It's important we do not mix the two up.

88. Enbridge Pipeline Inc. completed the sale of assets, including Enbridge Line 10 pipeline, to Enbridge Income Fund Holdings Inc. on September 1, 2015 as announced on the website for Enbridge Income Fund Holdings Inc. See **Attachment 35**.

89. Enbridge Income Fund Holdings Inc. website confirms the fact that Line 10 oil pipeline is an assets they own. See **Attachment 36.** It states this fact under the category Assets:

> *ENF's business is limited to investment and ownership of Enbridge Income Fund (the Fund), which in turn owns the following high-quality energy infrastructure assets.*

The website then identifies Line 10 among the asset via mapping and related links.

90. The Enbridge Income Fund Holdings Inc. website features a Frequently Asked Questions page as seen in **Attachment 37.** It states:

> *When was ENF created?*
> *ENF was incorporated on March 22, 2010 and began trading on the TSX in December 2010 following the restructuring of the Fund.*

91. On the National Energy Board website for the Line 10 Westover Segment Replacement, the company name identified with this project is Enbridge Pipeline Inc. without mention to Enbridge Income Fund Holdings Inc. See **Attachment 38**.

92. All NEB regulatory documents regarding this pipeline hearing are being stored under the name Enbridge Pipeline Inc. See **Attachment 39**.

93. Enbridge Inc. explains it's relationship to Enbridge Income Fund Holdings Inc. in **Attachment 40** taken from the website for Enbridge Income Fund Holdings Inc. It states the following:

> *Enbridge holds approximately 90% economic interest in Enbridge Income Fund (the Fund) directly through it's investments in Enbridge Income Fund Holdings Inc. and in Fund Units and indirectly through its holdings of EIPLP Class C units, ECT preferred units, and Enbridge Income Fund Holdings Inc. (ENF) common shares.*

94. On the Enbridge Income Fund Holdings Ltd. website it has s section called *Investor Information Kit* and by clicking current investment presentation it results in a Power Point presentation titled: *Enbridge Income Fund Holdings Inc. Premier Energy Infrastructure Investment Vehicle July 2016.* **Attachment 41 page 41** states

that Enbridge's total ownership is 86.9%.

95. Enbridge Inc. Board of Directors list is seen in the screen shot in **Attachment 42.**

96. Enbridge Income Fund Holdings Inc. Board of Directors is in the screen shot in **Attachment 43**. Having two separate boards of directors verifies the fact that Enbridge Inc. and Enbridge Income Fund Holdings Inc. are two separate companies.

97. **Attachment 44** is an article titled *Why Canadian pipeline companies are moving billions in assets to U.S. subsidiaries* as written by Geoffrey Morgan published on Oct. 2, 2015 in the Financial Post.

The article states the following in **Paragraph 1**:

> *Canadian pipeline companies are moving billions of dollars worth of assets to their U.S. subsidiaries, a move that allows them to pay less in tax and raise more capital for their major projects.*

98. **Attachment 44 Paragraph 4** states:

> *Executives at competing midstream company Enbridge Inc. said Tuesday the company had identified $24-billion in assets that could potentially be dropped down to its three subsidiaries, or "sponsored vehicles" as the company describes them, in order to finance its own $44-billion capital program.*
>
> *"Our sponsored vehicle strategy has arguably been slow to develop," said Enbridge senior vice-president, finance John Whelen at the company's investor day in Toronto. The company has transferred $4.2-billion worth of assets to one such subsidiary, Enbridge Income Fund Holdings, since 2011.*
>
> *In the past two weeks, the parent company has accelerated its drop downs. On Sept. 17, the parent company announced it had proposed a transfer of its remaining 66.7% ownership stake in the U.S. segment of its Alberta Clipper pipeline to subsidiary Enbridge Energy Partners LP for $900-million. Then on Sept. 22, the company announced it had transferred $1.76-billion worth of natural gas and diluent pipeline assets to Enbridge Income Fund, another of the parent company's subsidiaries.*
>
> *Both Enbridge Energy Partners and the parent company's third subsidiary, Midcoast Energy Partners, are both structured as MLPs.*
>
> *Rick Whitley, managing partner at accounting firm KPMG's Calgary office, said that an MLP is a U.S. corporate structure similar to the income trust model that was once prevalent in the Canadian energy sector. A 2006 change in tax laws eliminated the ability of income trusts to pay pre-tax dividends to unit holders.*

99. Based on my personal observations, this article clarifies the fact that parent company Enbridge Inc. transferred assets including Line 10, from the ownership of it's the Canadian based Enbridge Pipeline Inc. to a US company called Enbridge Income Fund Holdings Inc. specifically to take advantage of economic practices that are currently prohibited by Canadian law. As seen in **Attachment 44 paragraph 1** it states:

...they did this to pay less taxes.

100. I fail to understand how the sale of assets like Line 10 can reasonably be deemed in the public interest of Canadians. When aggressive tax avoidance strategies are implemented it transfers higher fiscal burdens onto Canadian taxpayers and when taxpayers have less money to invest with, it hurts the company's own bottom line. It's a flaw similar to their Intelligent Valve Placement. Their view of growth is like their view of topography. If a mountain equals growth, they dig holes and pile up the dirt on the side of the hole thinking they are creating new mountains when in fact they are burying themselves because they are eroding the cash liquidity of the investors who have supported them all these years. That's not good for business.

101. The NEB Act section 21 states the following:

> *Review, etc., of decisions and orders*
>
> ***21 (1)*** *Subject to subsection (2), the Board may review, vary or rescind any decision or order made by it or rehear any application before deciding it*
>
> ***Variation of certificates, licences and permits***
>
> ***(2)*** *The Board may vary a certificate, licence or permit but the variation of a certificate or licence, other than a variation changing the name of the holder of a certificate in respect of a pipeline or the name of the holder of a licence, is not effective until it is approved by the Governor in Council.*
>
> ***Exception***
>
> ***(3)*** *This section does not apply to*
>
> ***(a)*** *a decision, operating licence or authorization to which section 28.2 or 28.3 applies; or*
>
> ***(b)*** *an approval of a development plan under section 5.1 of the Canada Oil and Gas Operations Act.*
>
> - *R.S., 1985, c. N-7, s. 21;*
> - *1990, c. 7, s. 10;*
> - *1994, c. 10, s. 21;*
> - *2015, c. 21, s. 6.*

102. Section 74 of the NEB Act states the following:

Limitations on purchase and sale, etc.

- **74 (1)** A company shall not, without the leave of the Board,
  - **(a)** sell, transfer or lease to any person its pipeline, in whole or in part;
  - **(b)** purchase or lease any pipeline from any person;
  - **(c)** enter into an agreement for amalgamation with any other company; or
  - **(d)** abandon the operation of a pipeline.
- **(2)** For the purposes of paragraph (1)(b), *pipeline* includes a pipeline as defined in section 2 or any other pipeline, and, for the purposes of paragraph (1)(c), *company* includes a company as defined in section 2 or any other company.
  - **Terms and conditions — abandonment**

  (2.1) The Board may, on granting leave to abandon the operation of a pipeline, impose any terms and conditions that it considers proper.
  - **Exception**

  (3) Despite paragraph (1)(a), leave shall only be required if a company sells, transfers or leases any part or parts of its pipeline that are capable of being operated as a line for the transmission of gas or oil.
-
  - R.S., 1985, c. N-7, s. 74;
  - 2004, c. 25, s. 155;
  - 2015, c. 21, s. 25.

103. *Filing Manual Guide R, Transfer of Ownership, Lease or Amalgamation* (NEB Act Paragraph 74 (1) (a), (b) and (c) as produced by the NEB can be viewed in **Attachment 45**.

104. I asked if there was a Transfer of Assets when Enbridge Income Fund Holdings Inc. purchased the assets from Enbridge Pipeline Inc. See **Attachment 46** for my communications with Graham White of *Enbridge Pipelines* (as he typed it) specific to this issue. Since Mr. White chose to embedded his response into the body of the email I wrote, I will clarify who wrote what as it relates to the August 20, 2015 email using the initials of our names. LL for Louisette Lanteigne and GW is for Graham White.

> *LL. Is Enbridge Pipeline Inc. a company? A simple yes or no response please. Is Enbridge Income Fund a company? Again, it is a simple yes or no response please.*
>
> *GW: Yes to both.*

LL. Does Enbridge Pipeline Inc. have any paperwork to suggest that they sought NEB permission for the transfer of these assets and ownership of Line 9 to reasonably prove compliance to section 74 of the NEB Act?

GW: As the NEB already indicated to you, an application for a transfer of shares is not required so there is no documentation.

LL. Is there any written information to verify that the NEB, Municipalities, Land Owners or First Nation's were reasonably informed of this transfer of assets?

GW: Our plans were well publicized with numerous news releases. http://www.enbridge.com/MediaCentre/News.aspx conference calls and supporting materials, http://www.enbridge.com/MediaCentre/News.aspx as well as MD&A and financial reporting disclosure http://www.enbridge.com/InvestorRelations/Events.aspx
Our plans were broadly disseminated well in advance of the Enbridge Income Fund shareholder vote. We will have a full 9 months between when we first announced our plans and closing, and we've been speaking openly and publicly about it during that entire time. Further, section 75 of the NEB Act still applies to Enbridge Pipeline Inc., who owns the facilities, to make full compensation for any damage sustained as a result of it's activities, nor are there any affects to civil liabilities.
To be more clear on actual ownership with respect to Line 9, it is owned by Enbridge Pipelines Inc. both before and after the transaction. There was no change in direct ownership of this asset. The restructuring was an optimization of our financial structure and has no impact on our operations. Enbridge remains the operator and manager of all it's assets and companies both before and after the transaction. There is no change to our comprehensive insurance coverage or our emergency response capabilities. Safety and operational reliability remain our number one priority.

LL. Thank you kindly for your time.

105. I contacted the National Observer with the concerns I had regarding the lack of Transfer of Assets and a story on this issue was published on August 20 in an article written by Fram Dinshaw titled *Enbridge Line 9 changing hands*. See **Attachment 47**.

106. **Attachment 47 page 3 fourth paragraph under the term Shell Games?** states:

John Quarterly, chair of the Chessmen Media Group, said that corporations often set up several layers of shell companies that force plaintiffs to sue through all the different levels, resulting in expensive court cases that can drag on for years. He alleged that such tactics were used by big companies to divest themselves of any responsibility in the event of disasters like a major oil spill.

“I do not know how many of you know how the corporations protect themselves from being sued," said Quarterly in an email to Lanteigne. "They keep setting up subsidiaries that have shares in the company which they have split off from.”

107. **Attachment 47, the last three paragraphs** state:

> But Lanteigne maintained that if the Enbridge Pipeline Inc. and Enbridge Income Fund were indeed two separate companies, then section 74 of the NEB Act would have been violated.
>
> *"If Enbridge Pipeline Inc. and Enbridge Income Fund are not actually individual companies because they are both part of Enbridge Inc. as Mr. White suggests, then it is reasonable to state that all NEB documents that refer to Enbridge Pipeline Inc. as a company are null and void due to the simple fact that Enbridge Pipeline Inc. is not a company," said Lanteigne. "The entire process was focused on Enbridge Pipeline Inc. as the applicant."*
>
> *The National Observer tried contacting Enbridge's Graham White several times for more information, but did not receive a response at time of writing.*

108. I wrote an email to the NEB Chair Peter Watson and here was his response the lack of transfer of assets concern I voiced.

> *----- Forwarded Message ----- From: Peter Watson <Peter.Watson@neb-one.gc.ca> To:"butterflybluelu@rogers.com" <butterflybluelu@rogers.com>; Sent: Friday, August 28, 2015 4:58 PM Subject: RE: Line 9 CPCN permit*
>
> *Dear Ms. Lanteigne: Please find attached Certificate OC-30 and Order AO-001-OC-30 relating to Line 9 and the sale of a 533.4 metre section of the pipeline. For further information with respect to the history of Line 9, please review the Board's decision in OH-002-2013. The Board has not taken the view that corporate name changes require applications under the NEB Act: see the Board's letter of 20 April 2015. The Board's top priorities are the safety of Canadians and the protection of the environment. As the Board noted in its 20 April 2015 letter, corporate name changes do not impinge on the NEB's effectiveness as a regulator.*
>
> *Regards, C. Peter Watson, P. Eng. FCAE*
>
> *Chair and CEO*

109. I reviewed the document: *Enbridge Pipelines Inc. Line 10 Westover Segment Replacement Project Section 1 Executive Summary*. **Attachment 48 section 1.1 page 1** states:

> *1.1. The Applicant*
>
> *Enbridge is a body corporate, incorporated under the Canada Business Corporations Act and is a "company" within the meaning of the NEB Act. Enbridge is the owner and operator of the Canadian portion of the Enbridge Mainline System, which is a common carriage system that transports crude oil and petroleum products from the hub at Edmonton, Alberta to locations*

throughout Canada and to the Canada/United States border.

110. Notice how they state the word Enbridge as the Applicant. This document has negated to provide the full legal name of the company with legal element included and this is in a section specifically designed to identify the applicant. This is not reasonable.

111. **Attachment 49** is Corporations Canada Introduction to Name Policies website. On the first page it states:

> *The rules for the granting of names under the Canada Business Corporations Act (CBCA) and the Canada Corporations Act (CCA) are almost the same. Essentially an applicant cannot have a name that*
>
> - *lacks distinctiveness*
> - *is likely to cause confusion with other businesses*
> - *is likely to mislead the public*
> - *is reserved for another business*
> - *is obscene, or*
> - *has an unacceptable French or English form*

112. **Attachment 49**, last page states in **section 1.5** Elements of a Corporate Name:

> Generally, a corporate name is composed of three elements.
> a. A distinctive element which is the unique identifier of the name
> b. A descriptive element which describes the line of business (Not absolutely required)
> c. A legal element which indicates the legal status of the corporation as an incorporated body
>
> Example: Teletext Commercial Communications Ltd.

113. The example of the term Enbridge as seen in **Attachment 48** shows how vague the use of the term Enbridge can be. The passage as written could technically refer to to Enbridge Pipeline Inc. or the company who acquired the asset, Enbridge Income Fund Holdings Inc. or to Enbridge Inc. Without the legal element included, it's hard to tell what they mean.

114. I wrote a letter to the NEB asking them to clarify who the current owner of the pipe is and **Attachment 50** is the written response provided to me about to my inquiry of Line 10 ownership. *File OF-Fac-Oil-E101-2015-09-02* is dated 16 May 2016 and is signed by L. George for Sheri Young Secretary of the National Energy Board. (Note: I have added bold font to selected areas of this response that I will be referencing.) It states **half way down page 1 of Attachment 50**:

> *• You have requested a copy of transfer of assets specific to Line 10, and raised several concerns regarding ownership related to Enbridge Income Fund and Enbridge Pipelines Inc. You have stated that '…if the ownership of the*

line has changed it is reasonable to state the current application is with a firm that no longer owns the pipe and this hearing process is null and void. That is the issue I want clarity on."

o ***The certificate holder for Line 10 is Enbridge Pipelines Inc.*** *The existing certificate authorizes the operation of the pipeline. The replacement of Line 10 is subject to Board approval.*

o ***The applicant for the Line 10 Westover Segment Replacement Project is Enbridge Pipeline Inc. The applicant refers to itself as Enbridge, and identifies this abbreviated name in its cover letter*** *to the project application.*

o ***The Board is aware that Enbridge conducted a restructuring and transferred assets to the Enbridge Income Fund. Enbridge is not required to seek authorization under section 74 of the National Energy Board Act for such a restructuring****.*

For greater clarity, sections 74(1)(a) and (b) are triggered only when there is a sale, purchase, lease or transfer of physical pipeline assets, rather than extending to transactions where an interest in the company (direct or indirect), as opposed to pipeline assets, is transferred.

115. The NEB has clarified in **Attachment 50** that Enbridge Pipeline Inc. filed the application for Line 10 and they are the certificate holder for Line 10.

116. NEB stated in **Attachment 50** that:

> *The applicant for the Line 10 Westover Segment Replacement Project is Enbridge Pipeline Inc. The applicant refers to itself as Enbridge, and identifies this abbreviated name in its cover letter.*

Based on that response it is my understanding that Enbridge Pipeline Inc. is responsible for using the abbreviated term "Enbridge" which in my view can easily be mixed up for Enbridge Inc. or Enbridge Income Funds Holdings Inc. Using the term Enbridge lacks regard for the distinctiveness of corporate names and causes confusion with other businesses. The Canada Business Corporations Act (CBCA) and the Canada Corporations Act (CCA) name policies were designed specifically to prevent these kind of issues. Why is this not standard practice at the NEB to always reference the full legal names?

117. **Attachment 50** states:

> *The Board is aware that Enbridge conducted a restructuring and transferred assets to the Enbridge Income Fund. Enbridge is not required to seek authorization under 74 of the National Energy Board Act for such restructuring*.

Because the NEB are not using full legal corporate names, the same phrase could be interpreted differently based on the assumption of the reader. I will give three examples to show how the same phrase can be interpreted differently. For example:

1. If the NEB is referring to Enbridge Inc. as the term Enbridge it is

reasonable to state that authorization under section 74 does not apply because The applicant is Enbridge Pipeline Inc. who owns the certificate for Line 10 not Enbridge Inc.

2. If the NEB is referring to Enbridge Pipeline Inc. as Enbridge, then it raises concern because Enbridge Pipeline Inc. transferred assets without using NEB Act section 74 as confirmed by both Graham White and NEB Board Chair Peter Watson yet at this time, Enbridge Income Fund Inc. is already claiming ownership of Line 10 on their corporate website in **Attachment 36**.

3. This example requires more effort to explain than the first two. See **Attachment 41 slide 2** of *Enbridge Income Fund Holdings Inc. Premier Energy Infrastructure Investment Vehicle July 2016.* The first paragraph states:

> *This presentation includes certain forward looking statements and information ("FLI") to provide Enbridge Income Fund Holdings Inc. ("EIFH") shareholders and potential investors with information about EIFH and its investee, Enbridge Income Fund (the "Fund"), management's assessment of their future plans and operations, which may not be appropriate for other purposes.*

Based on that passage, Enbridge Income Fund Holdings Inc. is a company and Enbridge Income Fund is an investee. They are identified as two separate things but the only difference between the two names is the use of the legal term Inc. It is so subtle a difference that the staff at Enbridge Income Fund Holdings Inc. had to create new acronyms to distinguish the names for their investors. Enbridge Income Fund Holdings Inc. is given the term EIFH. Enbridge Income Fund is referred to as "the Fund" in this report.

Transferring assets from one COMPANY TO ANOTHER without regard for sections 21, and 74 of the NEB Act would violate the NEB Act.

Now read this passage, once more and mentally insert the world Inc. after the term Enbridge Income Fund.

The Board is aware that Enbridge conducted a restructuring and transferred assets to the Enbridge Income Fund. Enbridge is not required to seek authorization under 74 of the National Energy Board Act for such restructuring.

If the Board was aware that Enbridge Pipeline Inc. transferred assets to Enbridge Income Fund Inc. This phrase could mean they admit to an act that violated the NEB Act or it could be indicating that discretionary powers at the Government level has somehow negated the need for compliance to those policies.

The NEB are using words like Enbridge and Enbridge Income Fund, without the use of legal aspect so it is very difficult to understand what that phrase actually means.

118. Based on the response I received I still do not know what legally registered company currently owns Line 10 pipeline currently.

119. There are rules for the granting of names under the Canada Business Corporations Act (CBCA) and the Canada Corporations Act (CCA) yet the National Energy Board and the Applicant and it's affiliates repeatedly use discretionary powers to avoid using full legal corporate names in applications, on websites and regulatory documents. This is resulting in the kinds of issues that these laws were designed to prevent.

120. The concerns that I wrote of **section 87, page 16 of this Affidavit** the same issue applies to the signs I saw when I did the site visit. They often do not contain the legally registered corporate names of the company who owns them.

121. A company must be legally registered with a legal corporate name to do business. That business has the right to create logos and a brand to help market themselves, but the concept of a brand name is a product of that a company, it is NOT the company itself. Brand names should never be used to replace the function of a bona fide registered corporate name for application processes or administrative information. To do so is fraud. Fraud means false representation by words or by conduct or by concealment of what should have been disclosed.

122. If we can't keep track of the legal corporate names on paper we should at least devise a mechanism to do the job for us so there is a clear legal record of who does what and when it happened, so here is an idea I offer to the Board.

> When I go to the bank I use a bank card that clearly identifies who I am as a person. The bank provides me with that number which I require to complete all transactions with that bank and it keeps record of my activities.
>
> All companies that requires the services of the NEB should have a properly registered corporate ID card that can only be issued by the NEB. The card must clearly identify registered corporate names and we can build a searchable data history specific to that company. No card can be issued to a brand name. This secures a means to record transactions are done only with legal corporate entities that are authorized to do work with the NEB. This will create a better foundation for planning and it will avoid name mix ups.

Conclusion

123. Based on the evidence I have provided, I do not support leaving Line 10 buried in the ground nor do I support the installation of a new oil pipe to replace the current function of Line 10 with expanded capacity.

116. I respectfully request a Federal audit or investigation of the Applicant and the NEB in regards to their avoidance of disclosing Registered Corporate Names in regards to the Line 10 Westover Segment Replacement Project and the concerns as voiced in this affidavit.

SWORN BEFORE ME at City of _____

In the Province of _____

On this_____Day of _____2016

_____ _____

Commissioner for taking Affidavits Signature of Affiant