

National Energy
Board



Office national
de l'énergie

File #: OF-Surv-Land-E101 40

22 May 2018

Ms. Louise Lanteigne
700 Star Flower Avenue
Waterloo, ON N2V 2L2

Dear Ms. Lanteigne:

The Board acknowledges receipt of your email correspondence dated 19 April and 23 April 2018 seeking information regarding Enbridge Pipelines Inc. (Enbridge) Line 9 and Line 3 respectively.

In your 19 April 2018 email, you requested information about the current tariff on the Line 9 pipeline. Enbridge's tariffs are available on the NEB's REGDOCS at the following link: <https://apps.neb-one.gc.ca/REGDOCS/Item/View/256889>. The tariffs that currently apply to Enbridge's Line 9 are NEB 427 (Rules and Regulations); NEB 415 (Local Tolls); and NEB 424 or FERC 1.10.0 (International Joint Rates).

In your 23 April 2018 email, you requested information about Line 3. The Board issued Certificate OC-063, a Certificate of Public Convenience and Necessity, for the Line 3 Replacement to Enbridge Pipelines Inc. after the OH-002-2015 hearing. The Certificate is available at the following link: <https://apps.neb-one.gc.ca/REGDOCS/File/Download/3084594>. All information regarding the OH-002-2015 hearing is publically available on the NEB's REGDOCS at the following link: <https://apps.neb-one.gc.ca/REGDOCS/Item/View/2545522>.

In your 23 April 2018 email, you also requested information about liability in the event of a spill. On 19 June 2016, Bill C-46, the *Pipeline Safety Act* (Act), came into force. This Act amended the *National Energy Board Act* to add absolute liability limits and financial resource requirements. The Act requires companies operating pipelines to carry a minimum level of financial resources to cover the costs of an unintended or uncontrolled release from a pipeline. Companies must demonstrate and maintain financial resources that match, at a minimum, the

amount of absolute liability applicable to them. A portion of the financial resources must be readily accessible to the company.

In the event of an unintended or uncontrolled release, the pipeline company is absolutely liable (that is, liable without proof of fault or negligence) for the applicable limit of absolute liability for things like loss or damages and loss of the non-use value of a public resource affected by the release. Where fault has been determined by a court, there would be no limit to what the company could be liable for.

NEB-regulated companies operating pipelines that individually or in the aggregate have the capacity to transport at least 250,000 barrels of oil per day (major oil pipelines) are subject to an absolute liability limit of \$1 billion. Enbridge is classified as a major oil pipeline. The Board approved Enbridge's financial resource requirement plan in the following letter: <https://apps.neb-one.gc.ca/REGDOCS/File/Download/3065206>.

In your 23 April 2018 email, you requested information regarding the ownership of Enbridge Income Fund and Enbridge Pipelines Inc. In previous correspondence with the Board, you have requested information regarding this topic and the Board has provided a response. These responses are attached as Appendices 1, 2 and 3 to this letter. The Board has no additional information.

Yours sincerely,

Samuel Sele

Attachments

Appendix 1

NEB letter dated 15 January 2018 in response to email correspondence dated 19 September 2017, 11 October 2017, 25 October 2017, 9 November 2017, 10 November 2017, 17 November 2017, and 3 January 2018

Appendix 2

NEB letter dated 16 May 2016 in response to email correspondence dated 27 and 28 April 2016

Appendix 3

NEB letter dated 8 September 2015 in response to emails dated 18 August 2015

National Energy
Board



Office national
de l'énergie

File #: OF-Surv-Land-E101 40

15 January 2018

Ms. Louise Lanteigne
700 Star Flower Avenue
Waterloo, ON N2V 2L2

Dear Ms. Lanteigne:

**Enbridge Pipeline Inc. (Enbridge)
Line 10 Westover Segment Replacement Project (Line 10)
Response to email correspondence dated 19 September 2017, 11 October 2017,
25 October 2017, 9 November 2017, 10 November 2017, 17 November 2017 and
3 January 2018**

I would like to thank you for your continued interest in this project and the National Energy Board's ("NEB" or "Board") role in oversight of federally regulated pipelines. The Board has received several emails and letters from you with regard to this and other projects. We recognize the time commitment and effort these letters have required on your part. The critical eye of the public on activities carried out by regulated companies, and on the NEB itself, is appreciated. A lot of what is done to develop and maintain pipeline infrastructure in the Canadian public interest goes unnoticed, and the interest of citizens and citizen groups helps bring that continuous effort to light.

The NEB has oversight of pipelines and facilities under its jurisdiction from their initial construction through to their abandonment. Companies under NEB jurisdiction must design, construct, and operate the facilities in accordance with the *National Energy Board Act* and its regulations, commitments made during hearings and applications, conditions attached to any approval, and all company (applicant's) practices and procedures.

Public safety and the protection of the environment are the top priorities of the NEB. The Board holds companies accountable for the safe operation of their pipelines.

Some issues you have raised in your correspondence are issues you have raised previously with

Canada

the Board. The Board cannot re-address issues it has already addressed in the OH-001-2016 hearing.

Engineer Certification

The Board is of the view that Enbridge's 3 October 2017 letter provides adequate information to respond to your questions regarding the engineers involved in the project on Enbridge's behalf.

Pipeline Integrity

Pipeline companies are required to have an effective Integrity Management Program. Using this program, the company manages the integrity of a pipeline system throughout its lifecycle.

With pipelines that can operate for decades it is important to have a program that continually assess and respond to issues that could impact the integrity of the pipeline. The Board evaluates and monitors these programs on a regular basis by auditing, inspecting, reviewing condition filings and other mandatory filings, and assessing incidents. The requirement for an integrity management program is embedded several times within the *National Energy Board Onshore Pipeline Regulations, SOR/99-294 (OPR)*, and within the *CSA Z662-15 – Oil and Gas Pipeline Systems (CSA Z662)* standard.

Section 40 of the OPR states:

40 A company shall develop, implement and maintain an integrity management program that anticipates, prevents, manages and mitigates conditions that could adversely affect safety or the environment during the design, construction, operation, maintenance or abandonment of a pipeline.

CSA Z662 defines what is required by an integrity management program throughout the standard. At its core the standard concentrates on achieving and maintaining the integrity of pipelines. The "Integrity Management" concept is addressed throughout the 700+ page document. The standard describes an integrity management program as being a systematic approach to respond to conditions that could have been identified by operating, monitoring, or any other means, that could lead to failures. The phrase "any other means" includes findings of subquality materials identified and reported elsewhere that may have found their way into pipeline systems.

The standard includes an annex that defines common requirements within an integrity management program, and clause N.2(h) includes manufacturing imperfections. This would include potentially substandard quality steel.

N.2 Integrity management program scope

An integrity management program shall address the life cycle of the pipeline system and shall be documented. The program should include methods for collecting, integrating, and analyzing information related to the following, as appropriate for the type of pipeline system:

- a) design and construction;*
- b) condition monitoring,*
- c) maintenance and repair;*
- d) operating conditions;*
- e) failure incidents;*
- f) damage incidents;*
- g) damage and deterioration (e.g., corrosion);*
- h) manufacturing imperfections;*
- i) environmental protection; and*
- j) safety.*

Your concern about the potential for sub-quality steel being identified, and potentially being within a pipeline that's already been in operation, possibly in operation for decades, is one that has been anticipated by the creators of the regulations and standards the NEB enforces. Enbridge does have an integrity management program, and that program and its effectiveness are monitored by the Board. To date, Enbridge has been in compliance with the Integrity Management Program requirements and we have no reason to believe that the company's program has not adequately addressed the potential of Kobe steel being used in its facilities.

Ownership related to Enbridge Income Fund and Enbridge Pipelines Inc.

You have raised several concerns in the past regarding ownership about Enbridge Income Fund and Enbridge Pipelines Inc. As noted in the Board letter dated 16 May 2016:

- The certificate holder for Line 10 is Enbridge Pipelines Inc. The existing certificate authorizes the operation of the pipeline.
- The certificate holder for the Line 10 Westover Segment Replacement Project refers to itself as Enbridge.

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

Environmental Protection

Ontario Endangered Species Act and Species at Risk Act

Enbridge's Preliminary Environmental Protection Plan (EPP) was submitted in response to the Board's information requests 2.3(e), 2.14(c), 2.15 and 2.16 [NEB Filing ID: A77227]. Enbridge's responses describe the environmental protection procedures, mitigation and monitoring commitments for the project. The Board's process allowed parties to review this Preliminary EPP and provide their input to the Board. Intervenors were permitted to ask Enbridge IRs on this information as well.

As per Condition 8 of Order X0-E101-001-2017, the EPP for this project must include:

- a) any environmental mitigation or monitoring committed to under conditions of permits issued by or agreements made with the Ontario Ministry of Natural Resources and Forestry, the Municipality of Hamilton and the following Conservation Authorities: Grand River, Hamilton, and the Niagara Peninsula;
- b) site-specific mitigation for migratory birds;
- c) site-specific mitigation for provincially and federally listed species at risk;
- d) site-specific mitigation for wetlands;
- e) site-specific mitigation for lands with drainage tiles and irrigated lands in order to maintain the integrity of the tile drains;
- f) updated Environmental Alignment Sheets; and
- g) current drawings of typical construction practices.

The EPP is submitted to the Board for approval prior to construction. It is reviewed by subject matter experts and is approved only if the site-specific mitigations and monitoring plans are deemed sufficient by the Board. More information on condition compliance can be found on the Board's website under the heading "Condition Compliance".

In the construction phase of a project, the NEB monitors and conducts on-site inspections which ensures compliance with both provincial and federal requirements. In addition, other conditions are included in the Letter Decision, such as providing records of engagement with provincial authorities and updates to construction plans and schedules, enabling the Board to carry out ongoing regulatory oversight and ensure compliance with regulations throughout the entire life of the project.

Environmental Assessment to mitigate risks prior to further continuance of construction along the Hydro Corridor

Under the *Canadian Environmental Assessment Act*, 2012 (CEAA 2012), Enbridge's Project is not considered a designated project since it is under 40 km in length and as a result the requirement for a CEAA 2012 environmental assessment does not apply. That being said, the Board considers environmental protection as part of its broader mandate under the *NEB Act* and it is pursuant to this authority that it completed its own Environment and Socio-Economic Assessment (ESA) for the Project as found in Chapter 8 of the Board's Reason for Decision document for the project publically-available on its website [NEB Filing ID [A81483-1](#)].

As part of the hearing process, the Board asked several Information Requests [NEB Filing ID [A79858-3](#)] regarding the Electrical Transmission Corridor Route (ETCR) which enabled the Board to complete its own Environment and Socio-Economic Assessment (ESA) for the project as found in Chapter 8 of the Board's Reason for Decision [NEB Filing ID [A81483-1](#)]. In addition, information on the ETCR as well as additional supplemental environmental field surveys were submitted on 15 August 2016 [NEB Filing ID [A78970](#)]. All of these activities were filed with the Board and can be found on the Board's website [NEB Filing ID [A4W2R0](#)].

The Board's website (under the heading "[The NEB's Lifecycle Approach to Protecting the Environment](#)") provides the following additional information regarding environmental assessments:

An environmental assessment is a review of the environmental effects likely to be associated with an energy project. This assessment is completed before the NEB makes a decision or recommendation on whether or not to approve an application.

The NEB considers many factors when conducting an environmental assessment (EA), including:

- physical and meteorological environment
- soil, soil productivity and vegetation
- wetlands, water quality and quantity
- fish, wildlife, and their habitat
- species at risk or species of special status and related habitat
- heritage resources
- traditional land and resource use
- human health, aesthetics and noise

The EA considers the likely environmental effects, the adequacy of proposed mitigation measures to protect the environment, and the significance of effects after mitigation measures would be implemented. The Board commonly imposes additional conditions on projects to ensure environmental protection measures will be implemented and will be sufficient. Further information can be found on the Board's website under the heading "[FAQs on Environmental Assessments](#)".

October 2017 and 3 January 2018 Questions

As previously stated, conditions 3 and 8 of Order [XO-E101-001-2017](#) are focused on environmental protection.

The most recently filed EPP for this project can be found at NEB Filing [A5T6V8](#). As discussed above, the Board approved the EPP filed by Enbridge as per the requirement in Condition 8. The EPP includes Enbridge's plans, protections and mitigations to protect the environment. The EPP governs each of categories stated in the 11 October 2017 letter (i.e. soil handling and storage, drainage tiles, erosion controls, watercourse crossings and wetlands, endangered species, archaeological resources and groundwater), and more. More information about the EPP can be found at [NEB Filing ID [A85713-2](#)].

Condition 3 (Environmental Protection) states:

Enbridge must implement or cause to be implemented all of the policies, practices, programs, mitigation measures, recommendations and procedures for the protection of the environment included in or referred to in its Application or as otherwise agreed to during the hearing or in its related submissions.

This includes any commitments made in ESAs.

NEB staff have reviewed all your emails and pictures submitted to the Board and did not identify any environmental compliance issue at this time. The Board will continue to evaluate compliance with NEB requirements using appropriate compliance verification activities and enforcement tools as appropriate.

Additional information regarding environmental matters and the *Electrical Transmission Corridor Rerouting* can be found in the *Environmental and Socio-economic Considerations for the Proposed Electrical Transmission Corridor ReRoute* document [NEB Filing [A5F0W7](#)].

Request for judicial review under the Judicial Review Procedure Act

Please be advised that your letter to the Board does not constitute a judicial review application under the *Judicial Review Procedure Act*.

Enbridge's consultation with the Ontario Ministry of the Environment (OMOE) and all of the affected conservation authorities was on-going throughout the planning and assessment stages of the project. The consultation logs submitted as part of the application and in response to IRs and Conditions demonstrated that the OMOE was very much involved in the planning and routing process.

The Board also consulted with Environment and Climate Change Canada (ECCC) specifically with respect to species at risk.

Dentons law firm

The Board is an independent regulatory tribunal with no affiliation to any law firms. The Board considers and values public participation in s. 58 applications, and did so in the OH-001-2016 hearing.

Approval of the Line 9 Project under s.58 of the NEB Act

With regards to your concerns on the use of s.58 of the *National Energy Board Act* (NEB Act) for the Line 9 project, I note that the Line 9 project was applied for under and met the criteria of that section. I can assure you that the Board uses the same engineering, safety and environmental standards to evaluate those applications as it does for applications filed under section 52 of the NEB Act.

The Supreme Court of Canada is Canada's final court of appeal. The National Energy Board is committed to continual improvement and we have reviewed and studied the Supreme Court decisions that you reference in that light. We will continue to evolve our process for carrying out project reviews to meet the changing expectations for the oversight of federal energy infrastructure projects.

If you have any questions about this matter, please contact me directly at sam.sele@neb-one.gc.ca or 403-470-1317.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Sam Sele". The signature is fluid and cursive, with a large initial "S" and a trailing flourish.

Sam Sele, B.Sc., M.Sc., Q.Med.
Socio-Economic and ADR Specialist

cc: Adam Oswell, Regulatory Advisor, Enbridge Pipelines Inc.



File OF-Fac-Oil-E101-2015-09-02
16 May 2016

Ms. Louissette Lanteigne
700 Star Flower Avenue
Waterloo, ON N2V 2L2
Email: water.lulu@yahoo.ca

Dear Ms. Lanteigne,

**Re: Enbridge Pipelines Inc. (Enbridge)
Line 10 Westover Segment Replacement Project (Line 10)**

The National Energy Board (NEB or Board) acknowledges receipt of your questions submitted to Matt Groza on 27 and 28 April 2016 regarding the ownership structure for Line 10. As your questions extend beyond the scope of process support that the NEB's Process Advisors can provide, the Board offers the following responses.

- You have requested a copy of the existing Certificate for Line 10.
 - This has been provided to you already.
- 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.'*
 - 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.
 - 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.
 - 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.

.../2

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.

The issues you have raised in your correspondence are similar to those you have raised previously with Board staff. Corporate changes of the type you have noted do not impinge on the NEB's effectiveness as a regulator of pipelines in the Canadian public interest. They do not detract from the full accountability to the Board and liability of the certificate holders (regardless of name changes) for the safe and secure operation of pipelines.

Your correspondence states that you have concerns about the liability and risk issues related to ownership of Enbridge pipelines and the transfer of assets. As a Commenter in the Enbridge Line 10 proceeding (OH-1-2016), you are entitled to share those views as they relate to Line 10 with the Board by way of a submission of a Letter of Comment. You may do so through the NEB's electronic document submission portal, addressing evidence to the Secretary of the Board and at the same time serve the relevant company. Procedural fairness dictates that all parties involved must have equal access to the information. Email is not a valid method of filing regulatory documents with the NEB. You may also provide an oral comment at the Community Meeting planned for late June.

Further email correspondence on these matters will not be responded to.

Yours truly,

Original signed by L. George for

Sheri Young
Secretary of the Board



Ms. Louisette Lanteigne
700 Star Flower Avenue
Waterloo, ON N2V 2L2
Email butterflybluelu@rogers.com

8 September 2015

Dear Ms. Lanteigne:

Enbridge Pipelines Inc. (Enbridge)
Line 9
Request for documentation on s.74, pipeline ownership

Public safety and the protection of the environment are the top priorities of the National Energy Board (NEB). The NEB accomplishes this by holding companies accountable for the safe operation of their pipelines. If the NEB is not convinced that a pipeline is safely operating in a manner that protects communities and the environment, the company will not be allowed to operate that pipeline.

We acknowledge receipt of the emails that you sent to the NEB Chair and CEO, Peter Watson, in addition to the several emails sent to various staff from August 18, 2015 to present on the topics of the ownership and integrity of Line 9. However, you have not provided sufficient evidence to demonstrate that any non-compliances have taken place, or that there are threats to safe pipeline operation that the Board has not already addressed.

Corporate changes of the type you noted do not impinge on the NEB's effectiveness as a regulator of pipelines in the Canadian public interest. They do not detract from the full accountability to the Board and liability of the certificate holders (regardless of name changes) for the safe and secure operation of pipelines.

You also addressed the compliance of Line 9B with CSA Z662-11. This matter was considered as part of the OH-002-2013 hearing and discussed in the Board's Reasons for Decision. Facilities built under older versions of the CSA standard are assessed as to whether they remain safe to operate.

.../2

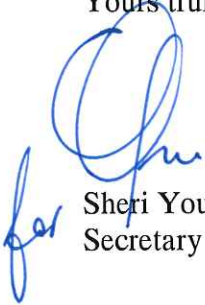
The NEB will continue to take a proactive approach to pipeline safety by verifying that the companies we regulate adhere to our requirements, and specifically to the conditions of our Orders and Certificates, through inspections, investigations, and audits.

Should companies fail to live up to their commitments around safety and environmental protection, the NEB will not hesitate to take strong enforcement action.

Individuals who wish to raise issues with the NEB must file their documents through the NEB's electronic document submission portal, addressing evidence to the Secretary of the Board and at the same time serve the relevant company. Procedural fairness dictates that all parties involved must have equal access to the information. Email is not a valid method of filing regulatory documents with the NEB.

Further email correspondence on these matters will not be responded to.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Sheri Young', is written over the typed name. To the left of the signature is a small, stylized blue mark that looks like a lowercase 'f' or a similar flourish.

Sheri Young
Secretary of the Board