

# Memo

**To:** NOMA BOARD of Directors

**From:** Iain Angus, Vice President

**Date:** 9/1/2015

**Re:** Energy East Update

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Two reports have been issued in the past few days that have particular relevance to NOMA and Northwestern Ontario. One report is from the Fraser Institute and the second is from the Ontario Energy Board.

**The Fraser Institute Report** (Safety in the Transportation of Oil and Gas: Pipelines or Rail?) confirms the position taken by NOMA that pipelines are the safer method of transporting oil when compared to rail. The study found that:

- “Transporting oil and gas by pipeline or rail is in general quite safe.
- But when the safety of transporting oil and gas by pipelines and rail is compared, taking into consideration the amount of product moved, pipelines are found to be the much safer transportation method.
- Specifically, rail is found to be over 4.5 times *more* likely to experience an occurrence when compared to pipelines.
- Over 70 percent of pipeline occurrences result in spills of 1 m<sup>3</sup> or less, and only 17 percent of pipeline occurrences take place in actual line pipe, meaning that the vast majority of spills occur in facilities, which may have secondary containment mechanisms and procedures.”<sup>1</sup>

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<sup>1</sup> The full Fraser Institute report can be read at <http://www.fraserinstitute.org/uploadedFiles/fraser-ca/Content/research-news/research/publications/safety-in-the-transportation-of-oil-and-gas-pipelines-or-rail.pdf>

The **Ontario Energy Board**, following its province wide consultations to provide advice to the Minister of Energy released its report “Giving a Voice to Ontarians on Energy East: Report to the Minister on August 13, 2015.”<sup>2</sup>

Some media reports have suggested through their headlines that the OEB report found that

“The Ontario Energy Board says the environmental risks of the \$12 billion Energy East pipeline project outweigh the potential benefits ....”<sup>3</sup>

While others clearly reported that

“What we have found is that there is an imbalance between the economic and environmental risks of the project and the expected benefits for Ontarians,” the board’s vice-president Peter Fraser said Wednesday. He said the company could improve that balance by addressing concerns about potential gas shortages as it converts the mainline natural-gas pipe to carry oil, by changing the route where it comes too close to important waterways and by ensuring it employs the most up-to-date technology to prevent and mitigate spills.”<sup>4</sup>

It is important to emphasize that as noted below, the OEB report is based on information submitted to the National Energy Board on October 30, 2015 and updated on January 30, 2015. TransCanada Pipeline has indicated that it is in the process of filing supplemental material expected in the first quarter of 2016<sup>5</sup>

The following are the OEB’s recommendations to the Government of Ontario, and through them to Energy East and to the National Energy Board:

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<sup>2</sup> The OEB full report can be found at:

[http://www.ontarioenergyboard.ca/html/oebenergyeast/documents/report\\_to\\_minister/energyeast\\_report\\_to\\_minister\\_EN.pdf](http://www.ontarioenergyboard.ca/html/oebenergyeast/documents/report_to_minister/energyeast_report_to_minister_EN.pdf)

<sup>3</sup> CBC: <http://www.cbc.ca/news/canada/new-brunswick/ontario-energy-board-says-energy-east-pipeline-risks-outweigh-benefits-1.3189925>

<sup>4</sup> Globe and Mail: <http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/ontarios-risks-outweigh-reward-for-transcanadas-energy-east-pipeline/article25961254/>

<sup>5</sup> Letter to NEB, May 2015 page 7 section d: [https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/2432218/2540913/2543426/2776551/Response\\_to\\_NEB\\_IR\\_N\\_o.3\\_-\\_A4L4F1.pdf?nodeid=2776747&vernum=-2](https://docs.neb-one.gc.ca/ll-eng/llisapi.dll/fetch/2000/90464/90552/2432218/2540913/2543426/2776551/Response_to_NEB_IR_N_o.3_-_A4L4F1.pdf?nodeid=2776747&vernum=-2)

## “THE OEB’S ADVICE

Our advice is based on TransCanada’s application filed with the National Energy Board on October 30, 2014 and additional technical material filed on January 30, 2015. Looking at what has been filed as of January 2015<sup>6</sup>, the OEB is concerned with some aspects of Energy East.

The Energy East Pipeline would be near many Ontario waterways. The proposed pipeline crosses or runs beside the Nipigon, ... rivers. It would also pass by a number of lakes, including Lakes .... and Nipigon, Trout Lake and Lake of the Woods. In light of this proximity, the OEB believes that TransCanada needs to assess whether it is appropriate to take a route originally chosen for a natural gas pipeline and use it for the transportation of crude oil. Where the existing pipeline route is too close to environmentally sensitive areas, TransCanada should reroute the pipeline or justify why rerouting is not necessary.

TransCanada should pay particular attention to protecting Nipigon Lake, Trout Lake, .... and other areas where there is elevated public concern.

In addition, TransCanada should work with local and First Nation and Métis communities to identify the “significant water crossings” that will require additional shut-off valves. “

The following are the relevant recommendations that NOMA submitted to the OEB:

***NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not proceed to a hearing until TransCanada has published their definition of a ‘significant’ water crossing, and***

***And further NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not be approved unless there is a clear definition of a ‘significant’ water crossing approved by the NEB following further consultation by the NEB with the residents of Northwestern Ontario.***

***And further NOMA requests that the Ontario Energy Board recommend to the NEB that the Common Voice Northwest application for funding under the Participant Funding program be approved in order that an independent community consultation on the definition of a significant water crossing can be carried out across Northwestern Ontario.***

***NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not proceed to a hearing until TransCanada has identified all of the locations of the backflow valves and that information has formed part of public consultation led by the NEB in and for Northwestern Ontario,***

***And further NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not be approved unless there has been a clear determination of the location and functionality of the backflow valves to***

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<sup>6</sup> Emphasis added

***the satisfaction of the NEB and that the installation and maintenance of the backflow valves be a condition on any approval of the Energy East application.***

***NOMA requests that the Ontario Energy Board conduct its own research into the nature of the valves available to the pipeline industry to determine which valve or other devices will ensure that in the event of any leak or rupture at a significant water crossing (or other sensitive location) that the contents of the pipeline is immediately brought to a halt,***

***And further NOMA requests that the Ontario Energy Board inform the NEB of their findings,***

***And further NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not be approved unless the highest form of immediate shut off technology is deployed adjacent to all water crossings and sensitive areas.***<sup>7</sup>

## **“IMPACTS ON LOCAL COMMUNITIES**

The OEB believes community engagement needs to be long lasting and treated as an essential part of the life-cycle approach of operating Energy East. So, TransCanada should continue its community engagement effort and be accountable to First Nation, Métis and local communities for its monitoring and emergency response measures. First responders must be given information about the trajectory of spills at specific sites, along with the type of oil carried by the pipeline. TransCanada should perform emergency drills to demonstrate that it will be able to effectively respond and minimize the damage from spills.”

The following is the relevant recommendation that NOMA submitted to the OEB:

***NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not be approved unless there has been a formal Emergency Response Plan filed with the NEB, and that such plan identifies each community and/or partner along the pipeline who will participate in an emergency response and the details of such plan, and that the NEB approve such plans***<sup>8</sup>

## **“IMPACTS ON ABORIGINAL COMMUNITIES**

Ontario’s First Nation and Métis communities generally believe neither TransCanada nor the National Energy Board have respected their treaty or Aboriginal rights. Ontario therefore needs to encourage the National Energy Board to insist that all Aboriginal and treaty rights are respected

## **IMPACTS ON ONTARIO NATURAL GAS CONSUMERS**

Natural gas is a critical fuel for millions of Ontario consumers, heating their homes, operating their businesses and helping to generate their electricity. Energy East will remove pipeline capacity for natural gas by converting one of TransCanada’s 42-inch pipelines to carry crude oil.

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<sup>7</sup> Presentation to Ontario Energy Board re: Energy East Project, January 29, 2015, Northwestern Ontario Municipal Association in Ottawa, Ontario.

<sup>8</sup> Presentation to Ontario Energy Board re: Energy East Project, January 29, 2015, Northwestern Ontario Municipal Association in Ottawa, Ontario.

We are concerned that, even with the new natural gas pipeline that TransCanada is proposing to build in eastern Ontario, Energy East will reduce the supply and increase the price of natural gas for consumers in that region. Ontario needs to be assured that the pipeline capacity and the supply of natural gas in eastern Ontario will meet Ontario's medium- and long-term needs and that Ontario natural gas consumers will not subsidize the costs of Energy East."

The following are the relevant recommendations that NOMA submitted to the OEB:

***NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not be approved unless the costs of implementation are borne entirely by TransCanada.***

***NOMA requests that the Ontario Energy Board recommend to the NEB that the Energy East Application not be approved unless a \$500 million bond is deposited with the NEB<sup>910</sup>.***

## Conclusion

The OEB report is an important tool to understand the issues facing the design and approval of the Energy East Project. NOMA welcomes the work done by the OEB and sees the report not as a call to oppose the conversion of the line but is more consistent with the approach that NOMA has taken in that every effort must be made to protect the environment and the people who rely on the natural environment of Northwestern Ontario for their livelihood and for their lives.

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<sup>9</sup> IBID

<sup>10</sup> TransCanada should be required to post a bond with a value of \$500 million that can be drawn down by the Federal Government in order to pay for additional cleanup and remediation.