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31 May 2017

Ms. Sheri Young  
Secretary of the Board  
National Energy Board  
Suite 210, 517 Tenth Avenue SW  
Calgary, AB  
T2R 0A8

Re: File OF-Fac-Oil-E266-2014-01 02  
Energy East Pipeline Ltd. and TransCanada PipeLines Limited  
Energy East Project and Asset Transfer (Energy East)  
Draft List of Issues and Draft Factors and Scope

Dear Ms. Young:

The Ontario Rivers Alliance (ORA) is a registered Intervenor in the review of the Energy East Project and Asset Transfer. ORA is writing in response to the National Energy Board's (NEB) request for input on the Draft List of Issues (List) and Draft Factors and Scope (Scope) on the Application for the Energy East Project and Asset Transfer (Project).

ORA makes the following recommendations for your consideration:

**Recommendation 1:**

The List and Scope must include the potential impacts of the Project on Canada's greenhouse gas (GHG) emissions; and any changes to the amount of oil production resulting from the Project operation's upstream emissions; and any changes to the amount of oil consumption resulting from the Project operation's downstream emissions (Appendix 1, Section C1, C1a & C1b).

In support of this recommendation, ORA fully supports the submission made by Marc Lee, Senior Economist at the Canadian Centre for Policy Alternatives.

If the federal government is serious about its commitment to hold the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C, then it is imperative that the NEB provide meaningful consideration to the contribution that major fossil fuel energy projects, and their upstream and downstream GHG emissions would have on our environment.

**Recommendation 2:**

The List and Scope must include consideration of the potential environmental impacts in relation to the remediation/construction required for the Conversion portion of the Project, and must be addressed through a full environmental assessment.

There is no environmental assessment for the Conversion section of the proposed pipeline. However, conversion of the pipeline from natural gas to crude oil would mean a significant increase



in product weight, as crude oil is approximately 16 times heavier than natural gas. Natural gas and crude oil also have different risk profiles. Additionally, the consolidated application has identified several hydro-technical and geophysical hazards throughout the converted section of the project that in our opinion must be mitigated; however, the consolidated application does not inform as to how, or even if they would address these hazards.

Therefore, with the amount of reconstruction and additional support and remediation work that would be required to prevent spills or rupture, a full environmental assessment must be required for the Conversion section, including the potential effects of conversion construction on water, land, air, and wildlife, and integrity management work.

#### **Recommendation 2:**

The List and Scope of the Project must include the potential environmental and socio-economic effects of the construction and operation of power lines required for both the new and converted sections of the Project.

ORA submits that sections 1 to 3 of Appendix 1, are all within the scope of the Project, as they will necessarily be impacted by it, and must be considered in its assessment of the application. It is important to know whether there is currently enough power available to run the new pump stations and related machinery, or if new power generation projects will be required, and what environmental and socio-economic impacts that would have on local communities.

#### **Recommendation 3:**

The List and Scope should include a comprehensive list of all water crossings, not just ones that TC deems to be a Major Water Crossing, including the in-depth evaluation of each water crossing. This list and in-depth evaluation must be included in the Consolidated Application before it is deemed complete.

The current Consolidated Application states that throughout the entire Project, “*approximately 2,817 stream crossings were evaluated in depth. Of those crossings, only 118 were deemed to be Major Watercourse Crossings in accordance to CSA Z662-15, Clause 4.49. Attachment 1 of this report contains a complete listing of the Major Watercourse Crossings.*” (V4, Appendix 4-13) However, the pages of Attachment 1 were left blank in the Application. There is an extreme lack of information regarding all water crossings that would be placed at risk should this pipeline be approved. This is unacceptable.

#### **Recommendation 4:**

The List and Scope must require:

- A comprehensive list of all Highly Sensitive Receptors (HSR) within the Conversion section (including operator-defined HSRs) that includes a spatial analysis/assessment of all drinking water sources, Species at Risk, protected areas (provincial parks, conservation reserves, provincially significant values, ANSI sites), and all commercial fisheries.
- TC must also be required to revisit the analysis of Major Water Crossings and shut-off valve siting using the above criteria to develop a more fulsome and inclusive assessment of potential HSRs.
- This list must be required up front before the Application is deemed to be complete.

The Common Voice Northwest Energy East Task Force through KBM Resources Group and with funding from the NEB, conducted a series of public meetings across the Northwest. In addition, KBM



met with a number of key provincial and municipal officials with an interest in water quality, habitat and other aspects of the natural environment of the region.<sup>1</sup> This report found that the “criteria for HSR are too narrowly defined, and the analysis has some noted deficiencies that lead to questions about the credibility and thoroughness of the review”. ORA’s recommendation is based on their extensive consultations and recommendations.

#### **Recommendation 5:**

The List and Scope must Include meaningful community knowledge and Aboriginal traditional knowledge in the Consolidated application.

This would be in support of Subsection 19(3) of the CEEA 2012, where it indicates that the Environmental Assessment of a designated project may take into account community knowledge and Aboriginal traditional knowledge.

#### **Recommendation 6:**

The List and Scope must also include consideration of third party electricity generation required to power the proposed pump stations and other project components; the general route of such power lines, acknowledging some uncertainty given that they will be developed and operated by third parties; estimated forest clearing, and potential effects on species at risk, migratory birds, heritage resources, and GHG emissions; and the Applicants’ ability to affect the location and need for such power lines.

#### **Recommendation 7:**

The List and Scope of the project must include an assessment of the condition of the line, including the additional risk presented by a gas pipeline running parallel to a crude oil pipeline that has been in the ground for over 40 years.

In September of 2009, the adjacent 100-2 line ruptured near Englehart, Ontario, and exposed approximately 10 metres of Line 100-3 line (the line to be converted to crude oil) which was visually inspected and subsequently returned to service. The failed line was being monitored for leaks, was subject to an ILI program, and it had cathodic protection; however, it was made of the older polystyrene-wrapped pipe, and will still be after the conversion. It was reported to have failed due to stress corrosion cracking.

#### **Recommendation 8:**

1. **ORA recommends** the following language below from the “definitions” in CEEA 1992 be used for environmental and socio-economic considerations:
  - Environment means the components of the Earth, and includes
    - a. Land, water and air, including all layers of the atmosphere,
    - b. All organic and inorganic matter and living organisms, and
    - c. The interacting natural systems that include components referred to in paragraphs (a) and (b);
  - Environmental effect means, in respect of a project,
    - a. Any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the

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<sup>1</sup> Defining Significant Water Crossings and Sensitive Areas, In Response to the Proposed Energy East Pipeline, by KBM Resources Group, April 21, 2017.



- residences of individuals of that species, as those terms are defined in subsection 2(1) of the Species at Risk Act,
- b. Any effect of any change referred to in paragraph (a) on
    - I. Health and socio-economic conditions,
    - II. Physical and cultural heritage,
    - III. The current use of lands and resources for traditional purposes by aboriginal persons, or
    - IV. Any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or
  - c. Any change to the project that may be caused by the environment, whether any such change or effect occurs within or outside of Canada.
2. **ORA also recommends** the NEB issue an order under CEEA Section 5(3), to add the following components of the environment to Schedule 2:
- a. Toxic substances listed in Schedule 1 of the Canadian Environmental Protection Act (including carbon dioxide, methane, benzene, Sulphur dioxide, etc.)
  - b. Endangered, threatened and special species of special concern under the Species at Risk Act.

ORA fully supports the submission made by Chief Dorothy Towedo, Aroland First Nation, as well as the submission made by Marc Lee, Senior Economist at the Canadian Centre for Policy Alternatives.

Thank you for this opportunity to comment, although ORA would have appreciated a much longer comment period for such an important aspect of the review process!

Respectfully,

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