

STRENGTH
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Mohawk Council of Kahnawake

P.O. Box 720
Kahnawake Mohawk Territory J0L 1B0

Tsi Ietsenhaiéntáhkfiwa
" OFFICE OF THE COUNCIL OF CHIEFS "



Tel.: (450) 632-7500

Fax: (450) 632-7276

Website: www.kahnawake.com

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WITHOUT PREJUDICE
VIA ELECTRONIC FILING

Attention: Sheri Young, Secretary of the Board
National Energy Board
444 7th Avenue SW
Calgary, Alberta
T2P 0X8

RE: Enbridge Pipelines Inc. (Enbridge) Line 9B Reversal and Line 9 Capacity Expansion Project
Enbridge Letter dated September 9, 2014 in response to MCK letter of July 31, 2014
NEB Condition 18: Watercourse Crossing Management Plan dated June 16, 2014
NEB Condition 17: Results of 2013 Geohazard Study dated August 15, 2014
NEB Order XO-E101-003-2014 NEB Information Request No. 1 for Condition 16 and Enbridge response to said order

Wa'tkonnonhwerá:ton,

The Mohawks of Kahnawà:ke are in receipt of a filing from Enbridge responding to our letter to the NEB dated July 31, 2014. It should be noted that Enbridge has not directly engaged or consulted with the Mohawk Council of Kahnawà:ke ("MCK") regarding the specific issues raised in the MCK's July 31, 2014 letter, other than by filing its September 9, 2014 response letter.

The MCK would like to take the opportunity to respond to the content of the letter, including the provided attachment to the letter, namely the "Results of 2013 Geohazard Study" document dated August 15, 2014.

Definition of Major Watercourse Crossing

While MCK is pleased that the revised definition provided by Enbridge results in the incorporation of an additional 85 water crossings within the "major watercourse crossing definition", we continue to believe that the approach used to define a major watercourse does not meet the intent of NEB Condition 18.

In Enbridge's response to NEB Information Request No. 1 for Condition 16, Enbridge notes that all watercourses are sensitive and therefore it is not practical to classify watercourses based on environmental criterion. MCK believes that this is an over-simplification.

While true that all watercourses are sensitive, it is possible to rationalize that a one metre wide watercourse passing through the centre of an agricultural field could be considered less sensitive than, for example, the Grand River. Further, when flow rates are considered, a representative level of damage can also be factored into the analysis based on rate and extent of dispersion of an oil spill. MCK suggests that a relative ranking of sensitivity can be undertaken in a similar matter as that used to establish rankings for potential geohazards. Those watercourses with environmental sensitivity rankings rated as high or very high could then be included as major watercourses in conjunction with other rationale such as proximity to water intakes, width, etc.

Enbridge notes in IR Response 1 that it requires time to collect three season flow data at the watercourses so that it can more accurately model worst case effects. However, for many watercourses along the route, particularly the larger systems, flow monitoring data has been on-going for many years. Flow monitoring is undertaken by numerous agencies including federal (Water Survey Canada), provincial (e.g. MNR, Quebec Hydro), local (e.g. Conservation Authorities, municipalities) and private (developers, consultants). This long-term data should be actively sought by Enbridge officials as it is more representative of actual conditions than a simple three season flow monitoring program that can be influenced by annual fluctuations in weather patterns. MCK reiterates the importance of reaching out to local and regional water management experts as the key to achieving the intent of Condition 18. It is clear that the requirements of this condition require the expertise of the larger community of water managers to be achieved within an acceptable timeframe.

In the specific example cited by MCK in our previous letter concerning Spencer Creek, Enbridge responded by noting that Christie Lake would act as a reservoir to contain an oil spill in the Spencer Creek. MCK notes that Christie Lake is an artificial feature whose water level is significantly lowered on an annual basis. While it is possible that the feature could act as stated, consultation with local experts should be undertaken to fully understand the complexities of this feature. MCK believes that this illustrative example again reiterates the need for a broader consultation to not only provide information and answer questions, but also to ask the pertinent questions of water managers to ensure that the water features along the route are understood to the fullest extent possible.

Flood Monitoring

Enbridge notes in their response to MCK that flood monitoring frequency occurs on a daily basis during spring and summer flooding months. MCK appreciates this clarification and suggests that the Watercourse Crossing Management Plan that was submitted be updated to reflect this clarification. Despite this modification, MCK continues to espouse the view that a pro-active shutdown of the pipeline during a severe flooding event is advisable.

The logistics of a pro-active shutdown are undoubtedly more practical than initiating an emergency response during a large flood. By not planning to take the step of pro-active shutdown, Enbridge is demonstrating the need for Regional Storm level analysis at the watercourse crossings so that not only flows, but bank integrity and oil dispersion patterns can be evaluated under extreme storm events.

Geohazards

MCK received a copy of the submission by Enbridge to satisfy Condition 17 as an attachment to the Enbridge letter of September 9. We agree that a discussion of degraded crossings is included in this document as required by Condition 18 e).

We do have concerns with the number of watercourse crossings for which depth of cover has been reduced to less than 0.6 m (58 including five exposures). While the report provides assurances that the reduced cover does not pose an immediate threat (including in four out of five exposures) and states that detailed assessments by hydrological consultants have been performed, MCK recommends that these detailed assessments be peer reviewed by experts at NEB to ensure that adequate investigation has been undertaken. MCK further recommends that local agencies that may be working in proximity to these locations (water managers, municipals), be advised of the reduced cover in these locations and consulted to gain their insight on local erosion characteristics.

Enbridge notes in their report that six watercourse crossings will have their depth of cover measured by bathymetric survey in 2016 because they are too deep to safely gather this information by other means. MCK believes that it is important that information be gathered prior to leave to open so that a complete picture of the status of the geohazards along the pipeline can be established prior to operation. Similarly, in Appendix A, numerous slopes have identified observations stating “Confirm hazard in the field”. MCK believes that field verifications should be confirmed prior to leave to open.

Missing Information

Enbridge states in their letter of September 9, 2014 that they do not understand our concerns with Condition 18 f). This condition requests:

a description of how environmental risks to watercourse crossings will be managed, including provision of a responsibility chart for decisions and the hierarchy of decision points identifying which remedial actions would be implemented, for which degraded conditions, and under what time frames

MCK's concern with this condition is simply that Enbridge did not provide the information requested. The submitted Watercourse Crossing Management Plan does not contain a responsibility chart or a hierarchy of decision points.

Conclusions:

The Mohawks of Kahnawà:ke are extremely concerned about the negative and potential negative impacts that this project may have on the integrity, use and enjoyment of our Aboriginal title lands and on the exercise of our Aboriginal rights, including hunting, fishing and harvesting rights. Given the foregoing concerns, the MCK reaffirms its opposition to the NEB granting Leave to Open to Enbridge based on the failure to adequately fulfill the requirement of Condition of Approval # 18. The failure to adequately respond to this condition heightens the MCK's concerns about the operation of Line 9B. The MCK submits that Enbridge has not demonstrated that adequate information/planning is in place in order for the pipeline to be operated safely.

The NEB must demonstrate that it has taken these concerns into account and must not grant Leave to Open regarding this project until such time as the legitimate concerns of the Mohawks of Kahnawà:ke are addressed. The MCK further recommends that the NEB direct Enbridge to directly address these concerns with the Mohawks of Kahnawà:ke, as part of Enbridge's ongoing engagement obligations.

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**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Martin Thawen:rate Leborgne