

Filed: 2020-08-21
Section 101
EB-2020-0160

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Energy Board Act*, 1998, S.O. 1998, c. 15 (Schedule B);

AND IN THE MATTER OF an application by Enbridge Gas Inc. pursuant to Condition 4 from the Ontario Energy Board's Decision and Order, and Section 101 of the *Ontario Energy Board Act*, 1998 for authority to construct a work upon, under or over a highway, utility line or ditch in the County of Essex for the purposes of a natural gas pipeline in respect of which the Ontario Energy Board granted leave to construct in EB-2019-0172 to Enbridge Gas Inc.;

ANSWERS OF THE CORPORATION OF THE COUNTY OF ESSEX TO INTERROGATORIES FROM POLLUTION PROBE

Pollution Probe – Q # 1

Reference: None provided.

Preamble: None provided.

Question a): *Please confirm the date Enbridge applied to Essex County for approval to install the proposed NPS 6 pipeline within the County of Essex road allowance.*

Response: Enbridge requested approval from the County on June 27, 2019, and the County provided a response on June 28, 2019 outlining what was initially required of Enbridge for the approval process to move forward. See **TAB # 1** attached hereto in support of same.

Question b): *Please confirm the date Enbridge applied for approval to Essex County to abandon or decommission the existing NPS 10 steel pipeline within the County of Essex road allowance.*

Response: The same answer as above. The request was made by Enbridge on June 27, 2019.

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Question c): *Please confirm what date County of Essex was provided the EGI Environmental Report dated July 16, 2019 for the proposed NPS 6 pipeline and provide a copy of the cover letter accompanying the report (if available).*

Response: The EGI Environmental Report, dated July 16, 2019, was received by the County on July 25, 2019, under cover of a letter from Stantec Consulting Ltd., dated July 22, 2019. Attached hereto at **TAB # 2** is a copy of the letter from Stantec Consulting Ltd., dated July 22, 2019.

Prior to receipt of the EGI Environmental Report, the County held a consultation with Enbridge, during which the County provided Enbridge with all of its concerns around alignment and depth. This information does not appear to have been provided by Enbridge to its consultant Stantec.

Question d): *Please confirm the nature of discussions and permit/approvals with Enbridge over the proposed pipeline on or around August 19, 2019 when Enbridge filed its Leave to Construct application to the OEB for approval of the proposed NPS 6 pipeline.*

Response: On or around August 19, 2019, the County was still waiting for Enbridge to provide a response to the County's email of June 28, 2019, a copy of which is referenced above and is attached hereto at **TAB # 1**. The responses required from Enbridge included capacity and why the alignment was not utilizing something closer to the existing alignment. These concerns were again raised by the County with Enbridge at a site meeting held on or about August 13, 2019.

Question e): *Please confirm the date that Enbridge provided the exact location and depth of cover for its proposed NPS 6 pipeline to the County of Essex.*

Response: On or about June 27, 2019 when Enbridge submitted drawings to the County. See paragraph 15(c) of the Affidavit of Jane Mustac.

Question f): *Please confirm which date Enbridge was notified that County Road 46 would be widened in the future.*

Response: It appears from the County's review of its records that the first time Enbridge was notified that County Road 46 would be widened was in the initial meeting between Enbridge and County administration held on May 24, 2019. Enbridge has subsequently been repeatedly notified of the County's plans for County Road 46 both verbally and in writing.

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Pollution Probe – Q # 2

Reference: Enbridge indicates that the County of Essex should have intervened in the pipeline Leave to Construct proceeding (EB-2019-0172) for the new pipeline if it had concerns.

Preamble: None provided.

Question a): *Please provide all correspondence from Enbridge recommending that the OEB Leave to Construct proceeding (EB-2019-0172) would be the appropriate forum to raise outstanding permitting and approval issues.*

Response: Enbridge has provided no correspondence to the County recommending that the County address outstanding permitting and approval issues in the Leave to Construct proceeding.

Question b): *Please explain why the County of Essex did not intervene in that proceeding.*

Response: The County repeats and relies on the evidence of Jane Mustac at paragraph 16 of her Affidavit. For ease of reference, the decision not to participate in the Leave to Construct Application was for the following reasons:

- (1) Enbridge had never objected to the County's concerns related to depth, which ultimately was the solution proposed by the County to address Enbridge's insistence on being so close to the paved edge of the roadway;
- (2) Enbridge's Leave to Construct Application did not make reference to depth of cover, other than in a single passing comment in a single paragraph of the EA;
- (3) The County was aware that the OEB requires Enbridge to obtain municipal consent, which consent process the County believes is the proper forum to deal with alignment and depth issues;
- (4) The Franchise Agreement provides the County Engineer with discretion about the placement of pipelines; and
- (5) The County made it clear to Enbridge as to what the County's depth requirements if the pipeline was placed with 6.0 metres of the existing paved edge of the roadway. However, Enbridge did not advise that it would not comply with the County's requirements until after the OEB rendered its decision in the LTC application.

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Pollution Probe – Q # 3

Reference: None provided.

Preamble: None provided.

Question a): *If the proposed NPS 6 pipeline is located as requested by Enbridge and the road allowance is widened in 5-10 years, please outline if any portion of the pipeline would need to be relocated at that time and who would pay for any relocation costs.*

Response: Any pipeline that is within 6.0 metres of the current paved edge of the road that is not at least 1.5 metres deep would have to be relocated.

The County's position is that any relocation costs would be fully borne by Enbridge in accordance with the language in the Franchise Agreement. If the pipeline is placed in the current alignment and with insufficient depth, in asserting that Enbridge should cover the full costs of relocation, the County will also rely on the failure of Enbridge to properly install the pipeline now in the face of the County's warnings about future plans for the widening and improvement of County Road 46.

Pollution Probe – Q # 4

Reference: None provided.

Preamble: None provided.

Question a): *Please confirm that using the 'TAC Guidelines for Underground Utility Installations Crossing Highway Rights-of-Way' is standard practice for municipalities in Ontario. If this is not correct, please explain why County of Essex is referencing this document.*

Response: The County cannot speak to what other municipalities' practices are. The County is a member of TAC and can confirm that the County's standard practice is to apply the TAC Guidelines, among other things, in assessing a proposed underground utility installation.

There are situations where the County does not apply the TAC Guidelines for Underground Utility Installations Crossing Highway Rights-of-Way. In assessing a project, if there is a more appropriate standard or guideline to apply in the specific situation the County will apply that more appropriate standard or guideline.

In addition to the TAC Guidelines for Underground Utility Installations Crossing Highway Rights-of-Way, the County also utilizes, among many others, the following from TAC:

- (1) The TAC Geometric Design Guides for Canadian Roads, which include specialized chapters on:

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- (a) Design Philosophy
 - (b) Design Controls, Classification and Consistency
 - (c) Alignment and Lane Configurations
 - (d) Cross Section Elements
 - (e) Bicycle Integrated Design
 - (f) Pedestrian Integrated Design
 - (g) Roadside Design
 - (h) Access
 - (i) Intersections
 - (j) Interchanges
 - (k) Special Roads
- (2) The TAC Guide for the Accommodation of Utilities Within Freeway Rights-of-Way
 - (3) The TAC Guidelines for the Coordination of Utility Relocations

For each individual project, the County determines which tools to utilize to determine the requirements of the project. For the specific project that is the subject of this Application to the OEB, the County determined that the TAC Guidelines for Underground Utility Installations Crossing Highway Rights-of-Way were applicable.

Pollution Probe – Q # 5

Reference: None provided.

Preamble: None provided.

Question a): *Please describe the local and regional impact if County Road 46 were to be closed due an issue related to the proposed pipeline (e.g. damage or rupture).*

Response: Given the nature of County Road 46 and its use as a major east/west route for the County, if an incident were to occur, the potential impact to traffic flow and to the safety of users of County Road 46 could be high. Jane Mustac in her report to County Council, dated May 20, 2020, which is appended as Exhibit "U" to her Affidavit, noted the following features of County Road 46:

"This key corridor functions as a Class 2 arterial road, is a major truck route, and accommodates an Average Annual Daily Traffic (AADT) count of up to 12,000 vehicles per day (vpd) with 5% consisting of heavy truck traffic. The traffic volume has been increasing at a rate of up to approximately 15% annually over the last couple of years and growth is expected to continue.

Based on the role and function of the roadway, the platform that is considered utilized and protected as the travelled portion can encompass up to 6.0 metres from the existing

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edge of pavement for safety purposes, to meet roadway maintenance requirements, to accommodate oversize and/or overload permits and to allow for future expansion of the shoulder and/or travelled lanes. It is known that County Road 46 would require a road widening of the existing road ROW as the travel growth needs of the community require, including expansion of intersections. The existing and planned future right-of-way should be protected..."

Further, the County's ability to reroute traffic for any extended period of time would be greatly limited due to the following:

- (1) The County cannot reroute on to local roads and must reroute to other County Roads;
- (2) The nature and distance of other east/west County Roads would make rerouting traffic extremely difficult; and
- (3) Other east/west County Roads do not necessarily have the rating and ability to handle the heavy and oversized loads that utilize County Road 46.

Dated: August 21, 2020

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LAWYERS FOR THE INTERVENOR,
THE CORPORATION OF THE COUNTY
OF ESSEX

TAB # 1

Sundin, David

From: Krystal Kalbol <KKalbol@countyofessex.ca>
Sent: June 28, 2019 11:12 AM
To: 'Chantelle Rodger'
Cc: 'Mark Murray'
Subject: RE: County of Essex Municipal Consent Request - 2020 Windsor Line Replacement Project

Chantelle,

As you are aware, Enbridge presented the 2020 Windsor Line Replacement Project to Council in May. Although Council was generally supportive of the project, they requested justification (prior to issuing a resolution) on why the Windsor Line is essentially being replaced with the same supply (a smaller pipe with a greater pressure) and did not consider future growth and expansion within Essex County.

In addition, there are also concerns as to why the pipeline is not being replaced within a private easement (as per the existing alignment) and what alternatives were/are being evaluated to eliminate the easements and utilize the County's right of way. As we discussed at our meeting on May 24, the County does have future widening plans for a portion of CR 46 as well as future consideration for additional widening along the corridor.

It is my understanding that prior to issuing Municipal Consent (or any permits) we will require a memo from Enbridge on the above concerns in order to circle back with Council on this project.

Regards,

From: Chantelle Rodger [mailto:Chantelle.Rodger@enbridge.com]
Sent: June 27, 2019 3:10 PM
To: Krystal Kalbol
Cc: Mark Murray
Subject: County of Essex Municipal Consent Request - 2020 Windsor Line Replacement Project

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Krystal,

Please accept this email as our formal submission for Municipal Consent for our 2020 Windsor Line Replacement Project.

Attached are PDF copies of cross section drawings. Our proposed method of installation is HDD. The attached spreadsheet provides a full list of road crossings and stream crossings. I confirm that a complete copy of the alignment together with a USB stick containing all of the attached was previously delivered.

Once you have had an opportunity to review the alignment drawings please provide a response of your Municipal Consent approval.

Should you require any further information or documentation, do not hesitate to contact me.

Regards,

Chantelle Rodger
Advisor Permitting Transmission

ENBRIDGE GAS INC.

TEL: 519-436-4600 ext. 5002411 | CELL: 519-350-0557 | chantelle.rodger@enbridge.com

P.O. Box 2001, 50 Kell Drive North, Chatham, ON N7M 5M1

enlongas.com

Integrity. Safety. Respect.

TAB # 2



Stantec Consulting Ltd.
400-1331 Clyde Avenue, Ottawa ON K2C 3G4

July 22, 2019
File: 160961289

Essex County
360C Fairview Ave W
Essex, ON N8W 1X6

Dear Sir/Madam,

Reference: Enbridge Gas Pipeline Project – Environmental Report: Windsor Pipeline Replacement

Enbridge Gas Inc. (Enbridge Gas) is proposing to replace approximately 60 km of the existing Windsor natural gas pipeline, an 8- to 10-inch diameter pipeline, with a new 6-inch diameter pipeline. The project is being completed as part of Enbridge Gas continual pipeline monitoring and integrity program.

Please note: As of Jan. 1, 2019, Union Gas and Enbridge Gas Distribution have amalgamated into one utility with the legal name Enbridge Gas Inc.

The proposed pipeline will be constructed following the same general route as the existing pipeline but will be located entirely within existing municipal road allowances. The proposed project will occur between the intersection Concession 8 and County Road 46 (located in the Town of Tecumseh) and the existing Enbridge Gas Port Alma Transmission Station (located in the Municipality of Chatham-Kent). If approved, construction of the pipeline could begin as early as spring 2020 and be complete by the end of 2020.

As an integral part of this project, Enbridge Gas has hired Stantec Consulting Ltd. to undertake an environmental study of the construction and operation of the proposed pipeline and related facilities. The environmental study will fulfill the requirements of the Ontario Energy Board's (OEB) *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (2016)*. An Environmental Report (ER), summarizing the results of the environmental study, is available at: www.uniongas.com/projects/windsor-line-replacement.

Please forward any comments you may have regarding the ER and project to the undersigned. Your comments would be appreciated by September 20, 2019.

Regards,

Stantec Consulting Ltd.

Laura Hill M.Env.Sc.
Project Manager
Phone: 613 784 2256
Laura.Hill@stantec.com

c. Ryan Park, Enbridge Gas

RECEIVED
JUL 23 2019
ADVISOR
APPROVED BY AGENT
FILE
COUNTY TREASURER

ISD.

(S)