

Ms. Christine Long  
Board Registrar  
Ontario Energy Board  
P.O. Box 2319, 27th Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

February 2, 2021

**Re: EB-2020-0198 – Enbridge Waterfront Relocation Project Leave to Construct  
Pollution Probe Submission Related to Notice of Withdrawal**

Dear Ms. Long:

Pollution Probe is in receipt of Procedural Order No. 5 dated January 29, 2021 related to the Enbridge's notice of withdrawal and recent correspondence from Waterfront Toronto, Enbridge and TRCA related to the project. In Procedural Order No. 5 the OEB invites Board Staff and intervenors to make submissions related to the following topics by February 5, 2021.

1. Adverse Impacts on Waterfront Toronto: What impact could the withdrawal of the application have on the Flood Protection Project schedule, if any? Can Waterfront Toronto adjust its schedule such that Enbridge Gas has more time to assess alternatives to the Project proposed in this Application?
2. Public Interest and Reliability of Natural Gas supply: If the Application is withdrawn, how can Enbridge Gas ensure the security of gas supply to its customers in the City of Toronto while addressing the removal of the Existing Pipeline from the Bridge?
3. Withdrawal with Conditions: If the OEB allows the Application to be withdrawn what, if any, conditions should it include in its decision? For example, should Enbridge Gas be required to provide a schedule for filing a new Leave to Construct application?

The following is Pollution Probe's submission and we have filed this in advance of the deadline to be of potential assistance to Board Staff and other parties as they work on their submissions.

Based on all the information available, it appears clear that there is real urgency to remove the pipeline from the existing location on the Keating Bridge and that it is in the public interest to proceed in a manner that will enable the critical flood protection along the Don River, while ensuring natural gas capacity to meet peak winter conditions for downtown Toronto. Enbridge does not require OEB approval to remove the pipeline from the existing bridge, but would require OEB approval to construct a new section of pipeline to provide continuity to the KOL feed to downtown Toronto. OEB review and approval would be required in 2021 in order to facilitate a new section of pipeline to be in service in 2022. The following are Pollution Probe's submissions related to the specific questions provided by the OEB.

**1. Adverse Impacts on Waterfront Toronto: What impact could the withdrawal of the application have on the Flood Protection Project schedule, if any? Can Waterfront Toronto adjust its schedule such that Enbridge Gas has more time to assess alternatives to the Project proposed in this Application?**

The project itself could be justified solely on the basis of the City of Toronto termination of the bridge permit for Enbridge's existing pipeline. However, aside from that, the proposed Flood Protection Project around the current location of the existing bridge attachment is part of a series of activities that have been in planning for several years. A series of construction activities specifically relate to widening and construction for the Flood Protection Project which itself is in the public interest to resolve (persistent and increasing) flooding issues related to the Don River. Once this project is complete it will reduce the risk and impact related to flooding along the southern section of the Don River. Flooding issues have been highlighted by many parties as a major concern and the impact of climate change and upstream development will continue to exacerbate this issue.

The project is also required to accommodate development of the Port Lands as outlined by Waterfront Toronto. Three levels of government came together to create Waterfront Toronto with the purpose of a coordinated development and revitalization of Toronto's waterfront. This is no small challenge and it is easy to imagine that significant coordination is needed across all levels of government and supporting agencies to support that goal. The issues related to the existing gas pipeline are just one example.

Enbridge projects requiring Leave to Construct approval take upwards of two years and potentially up to five years (Reference: Enbridge specific project planning per EB-2020-0091, Exhibit B, Figure 2.1) to be planned, approved and constructed. References in the evidence indicate that work on this project began in 2018 or earlier. All conceivable options that include starting an application from scratch create risk to the existing pipeline, impacts to the proposed Flood Protection Project and overall impacts to the waterfront development project.

Waterfront Toronto may have some flexibility related to the May 2022 deadline, perhaps in the range of months, but it is clearly not a scale of additional years. Waterfront Toronto intends to commence construction activities in September 2021 and proposed staggering of activities to enable abandonment of the existing pipeline and construction of a new pipeline section. A portion of the construction activities include building a utility corridor (for at least other utilities including Toronto Hydro, if Enbridge decides not to leverage that option) directly adjacent to the north side of the existing Keating Bridge. The projects are so close that the proposed piers for the utility corridor are simply an extension of the existing piers supporting the current bridge and existing Enbridge NPS 20 pipeline. If the OEB agrees with Enbridge position that construction adjacent to the existing pipeline is too risky, then do nothing is not a viable option. The pipeline should be removed and relocated.

**2. Public Interest and Reliability of Natural Gas supply: If the Application is withdrawn, how can Enbridge Gas ensure the security of gas supply to its customers in the City of Toronto while addressing the removal of the Existing Pipeline from the Bridge?**

The option put forward by Enbridge at this point is to withdraw the Leave to Construct application. This is driven in part by Enbridge's belief that the only option before the OEB is to approve the preferred route selected by Enbridge and that no other options could be considered or selected by the OEB as being in the public interest. If this were truly the only option, it would limit the OEB's authority to make decisions that

are in the public interest if the best option varied from what Enbridge proposes as its preferred route. In Pollution Probe's opinion, this is not a correct interpretation of the authority that the OEB has in making a decision in a Leave to Construct proceeding. A Leave to Construct proceeding at its very nature is part of the public consultation process and includes an assessment of relevant options to ensure that the most appropriate option is selected. There have been Leave to Construct applications where options different than those put forward by the applicant have been assessed and OEB Decisions which differ from the preferred options proposed by the utility in the application.

All potential options for the project are within the Study Area defined by Stantec in the Environmental Report filed in this proceeding (please refer to Appendix A to this document for a copy of the Study Area for the Environmental Report). The OEB Environmental Guidelines indicate "Applicants are expected to identify all reasonable alternatives within the study area and to compare their impacts systematically and consistently, using appropriate impact prediction techniques and methods for evaluating alternatives." (Page 14 of OEB Environmental Guidelines). Through this proceeding alternative routing options have been put forward that should be considered and these options can be considered within the scope of the current Leave to Construct application.

Per requirements under the OEB's Environmental Guidelines, information related to the study area has already been shared with the Ontario Pipeline Coordination Committee (OPCC) for consideration. If a different alternative becomes the best option, Enbridge would simply need to inform the OPCC that the new option is the new Preferred Alternative and seek any incremental feedback.

**3. Withdrawal with Conditions: If the OEB allows the Application to be withdrawn what, if any, conditions should it include in its decision? For example, should Enbridge Gas be required to provide a schedule for filing a new Leave to Construct application?**

If the OEB decides to approve the withdrawal request, it is not practical that any conditions that the OEB could place on the Decision would enable the relocation to be completed within the timeline required. In Pollution Probe's view, it would be more efficient to continue the current proceeding and require the information related to the other options to be filed in an expeditious manner. If a shorter route is selected, it will have less impacts to landowners and the surrounding environment.

Respectfully submitted on behalf of Pollution Probe.

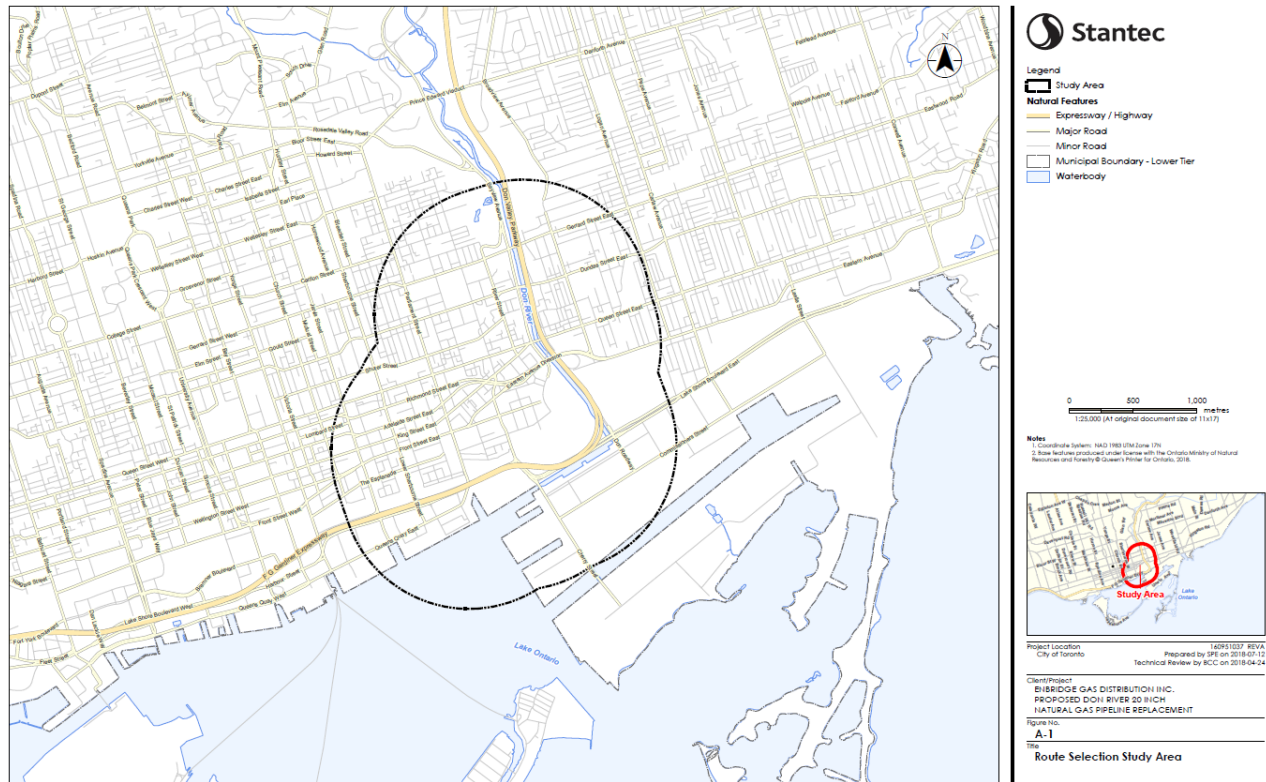


Michael Brophy, P.Eng., M.Eng., MBA  
Michael Brophy Consulting Inc.  
Consultant to Pollution Probe  
Email: [Michael.brophy@rogers.com](mailto:Michael.brophy@rogers.com)

cc: Enbridge Regulatory (email via [EGIRegulatoryProceedings@enbridge.com](mailto:EGIRegulatoryProceedings@enbridge.com))  
Guri Pannu, Senior Legal Counsel, Enbridge (via email)  
All Parties (via email)  
Richard Carlson, Pollution Probe (via email)

## Appendix A

Reference: Exhibit C, Tab 1, Schedule 1, Attachment 1. Page 105 of Stantec Environmental Report for the Proposed Waterfront Relocation Project.



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