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VIA E-MAIL TO BUOPS.EMS-GMUS@neb-one.gc.ca

Secretary of the Board
National Energy Board
517 Tenth Avenue SW
Calgary, AB T2R 0A8

Attention: Ms. Sheri Young, Secretary of the Board

Dear Ms. Young:

**Re: File OF-Surv-Gen-08
Notice of Intent to Order Pipeline Companies to Publish Emergency Management Program
Information**

Comments of Équiterre on Draft Order

Introduction

Équiterre is pleased to submit comments on the Draft Order put forward by the National Energy Board (NEB or "Board") concerning on-line publication of pipeline emergency management program information, in response to the Board's call for comments dated 8 September 2016. The Draft Order contained in the Board's Notice of Intent would require companies, with certain exceptions, to publish Emergency Management (EM) information on their publicly available websites by **31 March 2017**.

About Équiterre

Équiterre is a registered charity with a 20-year history in awareness-raising and advocating for sound environmental and energy policies in Québec, Canada and internationally. We have 18,000 members and more than 150,000 supporters located largely in eastern Canada, and also run the world's largest community supported agriculture program, with over 120 organic farms in Québec. Équiterre is very active on pipeline issues and its specific interests include emergency management matters and transparency.

Our comments on the Draft Order

Please note that our comments, as detailed below, are organized according to the section numbers in the text of the Draft Order.

Section 1.a. While we favor the requirement that companies publish EM Program information applicable to their NEB-regulated facilities on their (or their affiliate's) internet site for public viewing by 31 March 2017, it is of utmost importance that any company having pipelines crossing the Province of Québec provide online Emergency Management information in both French and English. Consequently, Équiterre strongly recommends that the Board modify the Draft Order to require online publication of EMs in both French and English.

Furthermore, we find that certain of the confidentiality-related exceptions in Section 1.a. are inappropriately overbroad. Given that the objective of the Draft Order is to increase transparency on the emergency management programs of pipeline and other companies, the Board should draw a very small circle around information that the companies may withhold in order to ensure that maximum information is provided to municipalities and the public, who must have access to such information in order to properly prepare for the consequences of a pipeline spill.

Specifically, we find that sub-sections ii, iii, and iv are overbroad. To recall, the Draft Order states that companies may protect from publication online of information that falls into certain categories, including those in these three sub-sections, reproduced below:

ii. where there is a real and substantial risk that its disclosure will impair the security of pipelines, power lines, buildings, structures or systems, including computer or communications systems or methods employed to protect them;

iii. that, if disclosed, could reasonably be expected to result in a material loss or gain to a person affected by publication of the EM Program information or that could prejudice the person's competitive position;

iv. about the location of species at risk and heritage resources;

Concerning **sub-section ii**, we are concerned that this provision is too broad and opens the door to companies relying on general "security concerns" in order to withhold details in their EMs that may be important for municipalities and the public to have in order to prepare for the consequences of a pipeline system spill. Consequently, Équiterre recommends that any companies relying on sub-section 1.a.ii be required to indicate, in their online publication of EM information, that they have withheld certain details and to provide a reasonably detailed explanation for so doing.

Concerning **sub-section iii**, we believe that the objective of public health and safety, which includes within it environmental health, must take precedence over the competitiveness of companies or individuals within them. Consequently, Équiterre recommends that sub-section 1.a.iii be struck in its entirety.

Concerning **sub-section iv**, we find that information concerning the location of species at risk and heritage resources is, fundamentally speaking, information of a public nature and information that should be available to municipalities and the public in order that they may better understand the risks to these resources and take steps to protect them. Consequently, Équiterre recommends that sub-section 1.a.iv be struck in its entirety.

Section 2. We find that the exemptions from the online EM publication requirement in this section are unnecessary and unwise given the general objective of providing information to municipalities and the public that can assist them in better understanding the risks and thus potential consequences.

Of particular concern is the exemption in **section 2.b.**, which would exempt companies with short, small diameter oil pipelines that are more than 500 metres from a water body or drinking water source from the online EM publication requirement. Short pipelines sometimes connect to much larger pipelines, and may potentially cause impacts to humans, flora and fauna regardless of proximity to water bodies. Consequently, Équiterre recommends that section 2.b. be struck in its entirety.

We are also concerned with exemption in **section 2.c.** for deactivated, decommissioned and abandoned pipelines as defined in the *Onshore Pipeline Regulations* (OPR). In particular, according to OPR 45, deactivated pipelines are still capable of being put back into service to transport hydrocarbons. Furthermore, we note that OPR 47 requires companies to “develop, implement and maintain” safety management plans “during all activities relating to construction, operation, maintenance, abandonment and emergency situations” (our emphasis). To be consistent with the purposes of OPR 47, and to better facilitate public safety, we believe that any EM information concerning deactivated, decommissioned and abandoned pipelines should be subject to the online publication requirements of the Order. Consequently, Équiterre recommends that section 2.c. be struck in its entirety.

Finally, we do not believe that exempting companies from publishing online EM relating to gas pipelines simply because they are small in diameter and pass through sparsely populated areas, as allowed by **section 2.a.**, does anything to enhance environmental protection or public safety. Thus, Équiterre recommends that section 2.a. be struck in its entirety.

Équiterre trusts that these comments will be afforded serious consideration, and expresses its appreciation for the opportunity to submit them to the Board.

Sincerely yours,



Steven Guilbeault
Senior Director
Équiterre