

EXPRESS-PLATTE PIPELINE SYSTEM

A Unit of Spectra Energy Partners

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Filed By Email

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Ms. Chantal Briand
Regulatory Approaches
National Energy Board
517-10th Avenue S.W.
Calgary, Alberta T2R 0A8

**Re: Express Pipeline Ltd. (“Express”)
30-Day Comment Period for National Energy Board Proposed Regulations for Pipeline
Damage Prevention in *Canada Gazette* Part I
NEB File: Ad-GA-ActsLeg-Fed-NEBA-RRG-DPR 02 01**

Dear Ms. Briand:

On 18 March 2016, the National Energy Board (“Board”) issued a letter to all interested parties advising that as a result of the *Pipeline Safety Act* amendments to the *National Energy Board Act*, the Board must update its regulations for pipeline damage prevention. The Board advised that the proposed regulations would be issued in the *Canada Gazette*, Part I on 19 March 2016, for a 30-day comment period. Express has reviewed the proposed regulations and provides the following comments for the Board’s consideration.

Express agrees with the Board that pipeline damage prevention is a shared responsibility between those who plan to conduct an activity near a pipeline and the pipeline company and those requirements for all parties must be clearly understood. Express supports the Board’s objective to enhance safety through one-call centre membership, mandatory calls and overall coordinated information sharing. Express also supports the new reference to ‘ground disturbance’, which better reflects the potential activities that could impair pipeline safety and security.

Express does, however, have the following concerns:

- (a) The proposed new definition for “facility” no longer includes reference to the placement of a structure on the pipeline right-of-way, only *construction* of a structure. This could lead the public and landowners to conclude that it is acceptable to place equipment and structures on the right-of-way without notifying or seeking authorization from the pipeline company. Express would note that there are many examples of structures that,

if placed or stored on the right-of-way, could significantly impede the company's ability to observe activities that could be a threat to the pipeline, identify a potential leak and access the pipeline for assessment and repairs and expose the public to potential risks. It could also significantly hamper the response of Express and first responders in the event of an emergency. Express strongly recommends the retention of the prohibition against placement of any facilities within the right-of-way.

- (b) Express notes that the new definition of "pipe" does not include reference to "all related appurtenances". It is in Express' view just as important to ensure protection for ancillary pipeline facilities as it is to ensure protection of the pipe or its coating. Damage to cathodic protection or above-ground infrastructure could compromise pipeline safety or security. For this reason, Express recommends that the Board include "related appurtenances" in the definition of "pipe".
- (c) Express is concerned that inclusion of the listed activities in the definition of 'agricultural activities' (such as tillage, nursery and sod operations) may cause landowners to believe that such activities are exempt from the requirement to seek company authorization notwithstanding that they cause ground disturbance. This, in combination with the shifting of the onus to pipeline companies to identify specific locations where the operation of mobile equipment or vehicles is *not* permitted, increases the risk of agricultural activities damaging pipelines. Express would respectfully request that the Board reconsider the proposed exemption and, at the very least, limit it to existing agricultural activities so that landowners wishing to undertake new agricultural activities would be required to notify the pipeline company.
- (d) The proposed regulations do not define "vehicle or mobile equipment". It is unclear if companies be required to permit all crossings by ATVs, snowmobiles and other recreational and personal use vehicles such as cars/pick-up trucks. Unlike large agricultural vehicles, which are exempt from the authorization requirements, these vehicles pose little threat to buried pipelines and permitting and monitoring their use is not in Express' view practical or necessary from a safety perspective.

Please address any questions to Declan Russell, via telephone at 403-355-8427 or email at dprussell@spectraenergy.com or Lisa Connolly, General Manager of Regulatory Affairs, via email at laconnolly@spectraenergy.com.

Yours truly,

Original Signed By

Declan Russell