

**Environmental Assessment Revitalization Engagement
Canadian Energy Pipeline Association (CEPA)**

Wednesday, April 25, 2018 / 8:30 AM – 11:30 AM MST
1110 505 3rd Street SW, Calgary, AB

Meeting Participants

- Scott Bailey, EAO
- Nathan Braun, EAO
- Alli Morrison, EAO
- Sonya Savage, CEPA
- Joel Forrest, Trans Canada
- Marilyn Carpenter, TransCanada
- Robert Martens, Enbridge
- Andy Galarnyk, Kinder Morgan
- Wendy Ross, Pembina Pipeline Corp
- Mike Reid, Pembina Pipeline Corp
- Tanis Fiss, Pembina Pipeline Corp
- Richard Grieve, Ministry of Energy, Mines and Petroleum Resources (EMPR) – on phone
- Kyle Harrison, Enbridge – on phone
- Patrick Roelofsen, Enbridge – on phone
- Ramona Salamucha, Enbridge – on phone
- Katie Shaw, Global Public Affairs – on phone
- Michelle Goodkey, Inter Pipeline – on phone

Summary Notes

Scott Bailey provided a brief overview of environmental assessment (EA) revitalization, and an update on EA revitalization engagement since the previous CEPA meeting on March 14, 2018. Nathan Braun led a discussion regarding the phases and related objectives of the proposed conceptual model. The following represents a summary of the discussion between the EAO and CEPA during the meeting.

Capacity Funding, Capacity Building

- Will the updated Fees Regulation include funds for capacity in participation? The EAO responded that the intention of an updated Fees Regulation is to support the provision of enhanced funding for Indigenous participation in the EA process while also recovering some of these costs to government.
- Are there attempts to building internal capacity with Indigenous groups to participate in the EA process as opposed to hiring third party consultants? The EAO responded that the development of internal capacity varies between Indigenous groups.
- CEPA members noted that there are communities where gathering basic levels of traditional knowledge has not been done, and cautioned against using project-specific EAs to address this. The Crown should be supporting building capacity in communities and collecting basic levels of traditional knowledge in advance of project EAs.

Public Perception of the EA Process

- CEPA members noted that some of the criticisms of the EA process may be due to a lack of understanding or public perception. There can also be a common conclusion that if ‘you do not like a decision, that the process is broken’ – which is not valid.
- CEPA members noted potential concerns with the engagement process in the federal and provincial EA reviews. The aim of industry has been to be reasonable and constructive, and meet in the middle. However, strong EA critics have been taking an extreme stance, which has potentially swayed the proposed federal legislation, for example.
- CEPA members noted that there is an organized opposition campaigning against the use of fossil fuels and the end game of the strategy is to ultimately undermine the EA process and project reviews. The campaign has been wildly successful, and is challenging for proponents to respond to.
- CEPA members noted that proposed EA processes should consider both negative impacts as well as benefits. Is there an opportunity to consider benefits that are broader than jobs, etc. including industry’s role in advancing reconciliation during the EA process?

Early Engagement

- Are there criteria for reaching the end of early engagement? How would proponents know when they are done this phase? Instead of overall timelines as proposed by the federal government, the EAO would likely provide guidance for what should be in a detailed project description, and the onus would be on the proponent to ensure the information is provided.
- CEPA members noted that if timelines are assigned then an “up to” statement would be preferred. Industry would prefer to know that early engagement would not carry on for years, unless necessary.
- Would capacity funding be provided for early engagement? The EAO responded that capacity funding is expected to be made available.
- CEPA members noted that there is a balance to early engagement. On the one hand, communities might not want proponents to approach them too early without knowing what the project looks like and, on the other hand, communities would prefer a project not be ‘fully cooked’. This may be more of an educational or preparatory piece is managing what is expected for both communities and proponents.
- CEPA members indicated that proponents can show up in Indigenous communities early but the foundation has to be laid by regulators ahead of time for this to be successful.

Readiness Test

- CEPA members noted that proponents are struggling with issues that are not project-specific such as climate change and GHGs, for example.

- CEPA members generally supported the purpose of the readiness test in addressing issues earlier that could be showstoppers later on. CEPA members recommended that the EAO review CEPA's submission on their proposed two-part process.

Information Gathering

- CEPA members suggested that a form of NEB's filing manual might be helpful in increasing certainty in what needs to be collected by proponents while also balancing timelines. This could also be informed by what is heard during early engagement.
- The EAO suggested that industry associations could potentially support the development of template for a standard AIR that is tailored to each industry. The EAO noted that consultation on the templates would be imperative, and that the EAO would need to finalize any standard AIR. CEPA noted that there are existing templates that could be applied here.

Demonstrating Neutrality

- CEPA members asked if the EAO concluding on significance would allow for a discussion between the EAO and proponents on conclusions. The EAO responded that there would be consultation on the conclusions reached in the EAO's assessment report, as there is now.
- CEPA generally supported the idea of the EAO hiring an independent expert to sit on the working group to avoid each Indigenous group from all having to hire their own experts. The EAO noted that there would have to be a terms of reference with the aim of reducing disputes if the chosen expert is agreed upon. The EAO noted that independent experts would only be targeted for very specific issues, which was generally supported by CEPA members.

Advancing Reconciliation

- CEPA members noted the importance of arbitrating shared territories outside of project-specific assessments.
- The EAO inquired with CEPA members regarding the use of impact benefits agreements (IBAs) in EAs. Some parties have suggested that government should require IBAs and publicly disclose them. CEPA members responded that being too prescriptive could create issues, and that there may be a competitive advantage amongst proponents in not wanting to divulge IBA information. That said, disclosing some of this information may be helpful in demonstrating the positive aspects of a project, and not just the negative.
- CEPA also noted that it is likely unnecessary to spell out "you shall have IBAs" because for proponents, it's a given. CEPA also noted that there are potential linkages to the federal *Extractive Sector Transparency Measures Act*.

Final comments

- CEPA noted that the same principles they emphasized during the federal review should be considered in EA revitalization: certainty, predictability and timeliness. The proposed conceptual model seems to address these principles better than the new federal legislation.
- CEPA also noted that the EAO should review the criticisms of the existing EA process and question their validity, or aim to reconcile the criticisms.

Next Steps

- The EAO offered to visit CEPA again in June to review the discussion paper. Regulations and policies related to new legislation would likely be consulted on in the fall.
- The EAO to follow up with CEPA on whether or not the intentions paper would follow a cabinet decision.