



CEPA Speech:

Expert Panel Review of Environmental Assessment Processes

CEPA, the Canadian Energy Pipeline Association is grateful for the opportunity to present to this Expert Panel and contribute to the important work you are doing.

CEPA represents Canada's 12 major transmission pipeline companies who transport 97 per cent of this country's daily natural gas and onshore crude oil production. CEPA is fully committed to participating in the federal government's review of environmental and regulatory processes. My colleague Sonya Savage, here today, is a member of the Multi Interest Advisory Committee.

The transmission pipeline industry seeks an Environmental Assessment ("EA") process that is based on science, evidence and facts. It must meet increasing demands for public engagement, be fair, transparent, timely and, coordinated. Achieving this outcome can only be done in partnership with all levels of government, including Indigenous governments and broader stakeholder groups.

To that end, there are two critical matters for CEPA I will address today. First, our support for maintaining a "one project, one review" approach. The NEB review process, including the EA under the CEAA 2012 is one of the most rigorous and robust regulatory systems in the world and is based on solid administrative legal principles. Second, to introduce a new model for the NEB's integrated approach to environmental and socio-economic assessments. We believe this new approach will help build public confidence, create greater certainty for project



proponents, enhance Indigenous community engagement and more meaningfully engage the public.

That said, CEPA also believes that consensus for the modernization of project reviews under CEAA 2012 and the NEB should account for the fact that the public wants to be more involved in the very legitimate broader policy matters such as climate change, upstream and downstream effects of projects, Canadian energy policy, Indigenous rights as well as matters of personal, local or regional interest, **but that they are beyond the scope of CEAA 2012 or the NEB's mandate.**

Prevailing frustration with the restricted scope of a project-specific review under CEAA 2012 and or the NEB is well-founded; all too often, project-specific reviews are the only public forum in which various interest groups can express their views on broader public policy matters.

Meanwhile, pipeline companies spend hundreds of millions of dollars to prepare complex route-specific environmental and engineering assessments, undertake multi-year engagement with Indigenous communities and stakeholders, only to have these broader public policy issues remain unresolved.

If left unresolved these issues can heavily politicize a project-specific government decision. A decision then becomes a proxy for any and all unresolved policy matters. This results in longer reviews and significantly greater regulatory uncertainty impacting the ability of companies to invest. To address this, CEPA is



proposing a two-part review for Major Pipeline Projects and will be advancing this concept more fully in the NEB modernization review.

The reason we're introducing this today is because CEPA believes it would increase public confidence in the federal EA process and the NEB review process. Moreover, it removes what has been called "extra freight" by other stakeholders, and provides a transparent and public venue to debate these broader public policy issues.

Part-one of the review would be a type of sustainability assessment to determine whether the project is in the national interest. Undertaken at the federal government level, broader public policy considerations such as climate change goals would be considered.

For instance, the recent Report from the Ministerial Panel for the Trans Mountain Pipeline Expansion Project conducted at the end of a lengthy two-and-a-half-year NEB process identified six high-level questions that the Panel recommended the government consider, if not resolve, before making a final decision on the project. Those six questions align with the type of broad issues CEPA suggests be considered in part-one: climate change, national energy policy, Indigenous matters including UNDRIP and FPIC, economic risks and rewards, and reconciling public interest with regional interests.

Part-one would take these issues out of the project-specific EA and preserve the distinction between the policy-making role of the government and the



quasi-judicial role of the NEB. If the project is aligned with government policy and is found to be in the national interest, a Governor in Council decision with conditions from part-one would be made and the project would proceed to part-two.

Part-two would be an independent, thorough project-specific EA performed by the NEB as the best-placed regulator with the experience and expertise to conduct specific reviews and retain its existing authority to impose conditions on the approval of the project. It would include the project-specific environmental and socio-economic assessment, together with the detailed engineering assessment of the proposed route. It would also consider project-specific mitigation measures to address route-specific issues raised by landowners, Indigenous communities and other stakeholders.

To be clear, CEPA is only proposing a two-part review exclusively for Major Pipeline Projects. CEPA is not proposing that all NEB regulated pipeline projects be subjected to a two-part review. In fact, further discussion about a two-part review includes consensus for appropriate triggers, the scope of each part, participation, time and place for GIC decision-making. CEPA will be addressing these ideas more fully in the NEB modernization.

In the context of this EA Review, CEPA strongly supports maintaining EA responsibilities within the NEB as the best-placed regulator to conduct a coordinated, efficient and thorough review. Adding additional regulatory authorities or additional regulatory processes is inefficient, costlier and may



involve fragmented consultations that will continue to frustrate the public and Indigenous communities. Lack of coordination often results in delays and makes conflict between processes more likely.

The NEB has decades of experience considering potential environmental effects for pipelines. As a lifecycle regulator, it is familiar with industry best practices for pipeline construction and operating standards and has the expertise to take environmental effects that are unique or potentially significant to pipeline projects into consideration. Moreover under the *Pipeline Safety Act*, unanimously supported in the last session of Parliament, the NEB has enhanced powers and tools to impose post-approval project-specific conditions.

CEPA believes that if the broader public policy issues are taken out of project-specific EAs and NEB reviews, the EA process under CEEA 2012 itself will continue to perform effectively for NEB regulated projects.

In recognition of its strengths as a lifecycle regulator for pipelines, CEEA 2012 gave the NEB responsibility for conducting EAs of NEB regulated projects. This provided greater clarity for pipeline proponents. Previously, pipeline projects often required an assessment from the NEB as well as other responsible authorities or other jurisdictions. This resulted in considerable uncertainty and duplicative processes, leading to unnecessary delays, costs and complexities.

CEPA feels strongly that a maintaining the overall process within the NEB, including project EA, in a “one project, one review” approach holds the best



prospect for avoiding duplication and adhering to predictable timelines, principles of procedural fairness.

In conclusion, our collective efforts in this EA review process should focus on striking an important balance between two important objectives:

First, the most effective and efficient regulatory framework is one that is fair and transparent, coordinated, clear, comprehensive, and based on science, evidence and facts. The review process should avoid duplication, outline clear accountabilities, and provide more meaningful public engagement and Indigenous participation.

Second, CEPA member companies propose to invest a significant amount in pipeline infrastructure projects that would add jobs, growth and economic prosperity; however we understand that investment confidence goes hand-in-hand with building public confidence in regulatory processes that lead to sustainable outcomes.

We respectfully ask this Expert Panel to keep these two important objectives in mind as it consults with Canadians and makes its deliberations on changes to the Canadian Environmental Assessment Process.

I would be pleased to answer any questions you have.

Thank you.