

SUMMARY REPORT
PART ONE OF THE
FIRST NATION AND MÉTIS COMMUNITY DISCUSSIONS
RE: TRANSCANADA'S PROPOSED ENERGY EAST PIPELINE

JULY 2014

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INTRODUCTION

In November 2013, the Province of Ontario’s Minister of Energy asked the Ontario Energy Board (OEB) to examine and report on TransCanada PipeLines Limited’s (TCPL) proposed Energy East Pipeline (the Project) from an Ontario perspective.

The decision to approve the proposed Energy East Pipeline is entirely the responsibility of the National Energy Board (NEB) and the federal cabinet. Figure 1 illustrates the stages of the NEB Process. If the Project is approved, various provincial regulatory processes will need to be undertaken to provide permits for components of the project that fall within provincial jurisdiction, such as for transmission lines and power generation facilities, and permission to work in provincial parks and conservation areas.

The Province of Ontario intends to participate as an intervenor in the NEB’s review of the Project. To support the Ontario intervention at the NEB, the Minister asked the OEB to provide a forum for Ontarians to express their views on the Project. These views and the advice from the OEB’s external technical advisors will inform the OEB’s report to the Minister. The Minister of Energy will use the OEB’s report to help formulate the Province’s position and its intervention at the NEB.

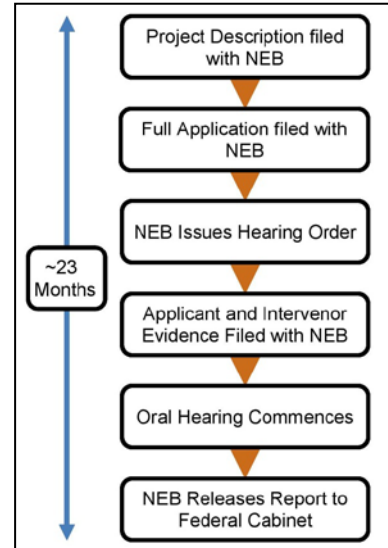


Figure 1. Stages of the NEB process.

Figure 2 illustrates the linkages between the NEB process and the OEB process.

The OEB retained independent third party expertise to help plan, facilitate and report on its meeting

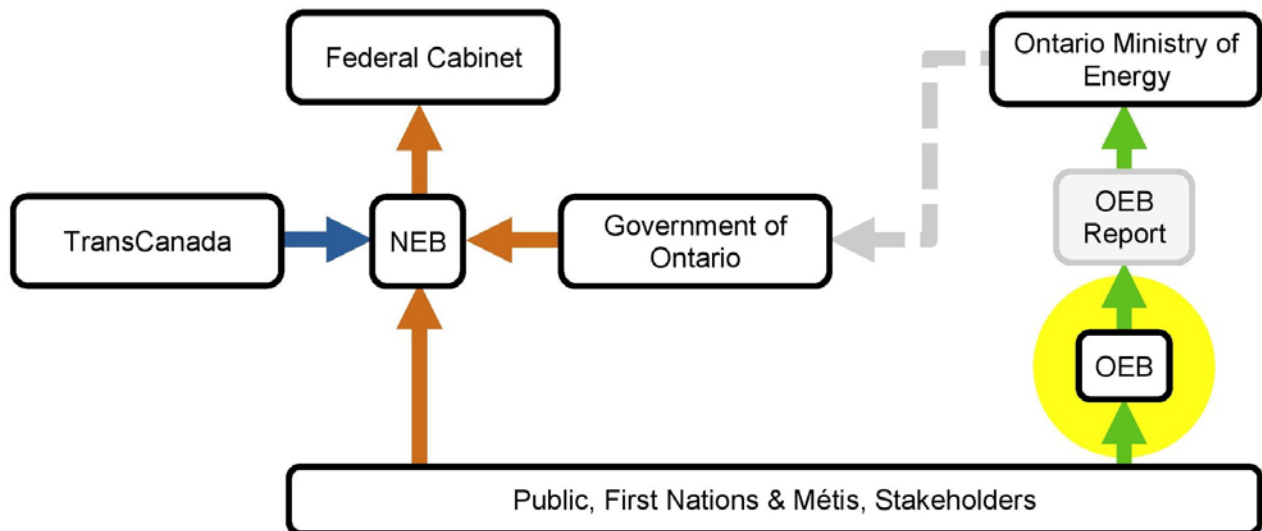


Figure 2. For more details on the information used and documents presented or provided during Part One of the OEB process, see Appendix A. For more information on the OEB process, see Appendix B.

process. It also retained external technical advisors to provide advice to the OEB on the potential risks and benefits of the proposed Energy East Pipeline for Ontario. Furthermore, the OEB invited written submissions from anyone who was interested in participating in this way. Swerhun Inc. was engaged to lead the broader public engagement events and stakeholder forums held throughout the province. John Beaucage, Principal of Counsel Public Affairs Inc. and former Grand Council Chief of the Anishinabek Nation led the planning, facilitation and reporting of the First Nation and Métis Community Discussions and written input. (See Appendix C for a summary of John Beaucage's background.)

This is the Report of Part One of the OEB process with First Nation and Métis communities. Our Part Two report will reflect what we hear from First Nation and Métis people on TransCanada's full application to the NEB and the OEB's technical reports (to be prepared by the OEB's external technical advisors), as well as any comments based on our Part One Report. Although it is impossible to capture the emotion and passion with which the messages were delivered, the report highlights the key issues, perspectives, concerns and advice that emerged from the discussions, and summarizes what we heard.

Our Process

Sixty (60) First Nation and Métis communities and organizations were invited to attend the Community Discussion meetings. In an effort to ensure as much participation as possible, written invitations were sent to community leaders and followed up with a phone call from John Beaucage. Throughout the report, we will refer to "First Nation and Métis" collectively, while acknowledging the diversity of opinions and interests within and between each group.

Part One of the Community Discussions was held between March 25 and April 8, 2014 in Kenora, Thunder Bay, Nipigon, Timmins, North Bay, Kanata and Cornwall/Akwesasne. Approximately 70 participants signed in at the meetings.

When we met in Part One, I made a commitment to treat this report as "draft" and to invite your further comments on the report when we meet again in Part Two. I made that commitment because I want to ensure that I have accurately and fairly captured the perspectives that you shared during our meetings

Following the Part One meetings, the Métis Nation of Ontario (MNO) raised issues with the process in a letter addressed to John Beaucage. The MNO noted that it did not participate in the discussions and stated that an engagement process designed for First Nations is problematic for capturing the interests of Ontario Métis. The letter suggested that there should be a separate process for Métis Nation members.

What We Discussed

The Community Discussions provided an opportunity to hear the views of First Nation and Métis communities and discover how they felt about: the proposed Project; how Treaty and Aboriginal rights might be impacted; and specific issues of concern to First Nation and Métis communities across the province.

In a letter dated November 12, 2013, the Minister of Energy instructed the OEB to consider the implications of four areas of potential impact, including Aboriginal communities, the natural environment, pipeline

safety, and economic impacts. The letter outlines six principles the Government of Ontario has adopted with respect to assessing proposed pipeline projects:

1. Pipelines must meet the highest available technical standards for public safety and environmental protection;
2. Pipelines must have world leading contingency planning and emergency response programs;
3. Proponents and governments must fulfill their duty to consult obligations with Aboriginal communities;
4. Local communities must be consulted;
5. Projects should provide demonstrable economic benefits and opportunities to the people of Ontario, over both the short and long term; and
6. Economic and environmental risks and responsibilities, including remediation, should be borne exclusively by the pipeline companies, who must also provide financial assurance demonstrating their capability to respond to leaks and spills.

Based on the four areas of impact noted above, the following three questions were posed in the First Nation and Métis Discussion Guide, though input on any areas of concern/interest was encouraged and, in fact, provided at the Community Discussions:

- ***Are there impacts on traditional territories, and/or treaty and Aboriginal rights?***
- ***What are the impacts that you think the Ontario Energy Board should focus on most closely in its report to the Minister of Energy?***
- ***What impacts and/or opportunities are created for Aboriginal communities by TransCanada's Energy East Pipeline project?***

The intent of this summary is to capture the full range of perspectives that were shared. It does not assess the merit or accuracy of any of these perspectives nor does it indicate an endorsement of any of these perspectives on the part of the OEB or its advisors.

As noted at the start of each meeting, the First Nation and Métis Community Discussions **do not** fulfill any duty to consult with First Nation and Métis communities that may rest with the federal government or any other entity or those to whom that obligation is delegated. Participation in the OEB process does not preclude any individual or group from also intervening at the NEB or in any federal consultation process. Individuals and communities were encouraged to seek further information about the NEB process from the "Resources" page at www.ontarioenergyboard.ca/OEBenergyeast.

WHAT WE HEARD

“This is our home, this is our life. It affects us in many ways.... We are going to be watching Ontario very carefully on how they represent us and how they represent Ontario.” (Participant, North Bay)

Participants in the First Nation and Métis Community Discussions shared their perspective on the proposed Project passionately, freely and openly, through formal presentations, open discussion, traditional circles, and breakout groups. Community Discussions were not recorded, though detailed notes were taken. (See Appendix D for a top-line summary of input received at each Community Discussion.) There were eight (8) written submissions addressed to John Beaucage and nine (9) submissions or letters related to First Nation and Métis concerns directed to the OEB, the Minister of Energy, or TransCanada. (See Appendix E for a list of participating organizations and communities. See Appendix F for all written submissions.)

The comments and sentiments that were shared reflect the importance that First Nation and Métis people place on their relationship with the land, on their nationhood, and on their Aboriginal and treaty rights and title. The input of participants illustrates the unique perspective as to the Project’s potential impacts on First Nation and Métis people living in close proximity to the proposed Project route. (See Appendix G for a map of the Project’s proposed pipeline route.)

This report has been organized to present the key themes that emerged from the discussions of the three questions posed in the First Nation and Métis Discussion Guide. Each section of the report provides a summary of the messages heard, supported by local examples and quotes from participants.

IMPACT ON TRADITIONAL TERRITORIES AND/OR TREATY AND ABORIGINAL RIGHTS

Protection of Mother Earth

A cornerstone of the feedback we received was grounded in the beliefs and perspectives of First Nation and Métis peoples about their responsibilities as stewards of the land and their traditional territories. All participants emphasized the importance of this responsibility and its significance to Aboriginal culture, values, traditions, way of life, and identity. As one Nipigon participant put it, “the earth does not belong to us, we belong to the earth. We need to protect it.”

As stewards of the land and water (“the lifeblood of Mother Earth”), the First Nation and Métis people protect the plants, animals, fish and medicines, as well as those who rely on these resources. This responsibility also obligates First Nation and Métis people to consider “Seven Generations” in assessing the impact of any human endeavour; that is, a responsibility to assess both the immediate and longer-term impacts. This

“One of the most difficult things to do is to take the long view... to plan for seven generations... and sadly governments and industry don’t do that. How much do short-term economic issues really matter? The impact on our territory is paramount: if the environment is ruined, we are ruined.” (Participant, Kanata)

responsibility and right are deeply cherished by the First Nation and Métis people and, according to their belief, were granted to them by the Creator.

Throughout all of the sessions, participants' comments focused on the potential harm that an oil spill or leak would cause to their right to harvest plants, animals and fish from the natural environment. This right is integral and intrinsic to their way of life and their culture. Many participants said that this must not be allowed to happen. Some vowed to stop the pipeline if environmental concerns are not addressed upfront.

- Participants from Nishnabe Aski Nation were particularly adamant that environmental concerns must be first and foremost in any discussion and review of the Project. They stated that the rivers in this part of Ontario flow to the north, and that environmental damage from a pipeline incident will have longer-lasting effects, including an impact on the harvesting of plants, animals and fish for food. Participants stated that while there may be a limited number of Aboriginal communities located directly on the pipeline route, the impact of any spill or incident that damages the environment would impact all Treaty 9 communities, given the risk of contamination of their water supply.
- Wabigoon Lake Ojibway Nation made it clear in their written submission that, "there must be an acknowledgement that our Nation's spiritual values must be incorporated in [a] manner that will allow our culture to flourish."
- The Aroland, Constance Lake and Ginoogaming First Nations described, both in person and in a written submission, the importance of watersheds within their traditional territories and the far-reaching impacts of any pipeline spill. Not only would a spill damage waterfowl staging areas for numerous species of ducks, and key spawning grounds for walleye and perch, it would threaten First Nations' use of the land and water for hunting, trapping, fishing, recreation, trade, transportation and economic, social and spiritual purposes.

Treaty Rights and Responsibilities

"Treaty implementation, treaty recognition, everything the treaty meant when it was signed needs to be at the forefront." (Participant, Thunder Bay)

Treaty Agreements recognize the traditional responsibilities for stewardship of the land. There is an inextricable link between the rights granted under the Treaty and the First Nations' responsibility to protect the land and water. Treaties also enshrine an obligation to abide by the concepts of mutuality of respect and care when the Crown and First Nations and Métis jointly consider any human endeavour that could impact their communities.

Many participants spoke of the deeply-rooted mistrust among First Nation and Métis people stemming from an historic disrespect and misunderstanding of treaty rights and

"We need to mutually define the threshold of mutuality.... We want an accountable process that has been defined mutually by First Nations and Ontario." (Participant, Kenora)

responsibilities by non-Aboriginal people. Many participants noted that their rights and responsibilities for the land have only recently been recognized in legal treaties. Some told of their displacement due to damage caused to their traditional territory. Based on past experiences, participants were passionate about the need to protect their rights to the land.

All participants stated that an understanding of the importance of the Treaty and the Treaty relationship with the Crown is central to any discussion about the Project.

- Participants in Kenora believe that neither the Province—as demonstrated in past negotiations—nor TCPL—as demonstrated in interactions with First Nation and Métis communities related to this Project—has an understanding of Treaty rights.
- Representatives from the Treaty 3 territory in Northwestern Ontario started the Kenora Community Discussion with a pointed discussion of the Treaty and the concepts of mutuality and respect. Whereas the Treaty implies mutual respect and equal benefit, it is felt that in most instances the benefit from lands and territories has, in practice, flowed in only one direction: away from First Nations. During the discussion, notice was given that there must be clear and tangible benefit to the First Nation signatories of Treaty 3. Such benefits may include training, jobs, and revenue sharing with First Nation and Métis communities along the route.
- It was also suggested that the Treaty 3 resource law, Manito Aki Inakonigaawin, must be recognized in discussions with TCPL during negotiations. This law, which was ratified by all the Treaty 3 communities in October 1996, would give them enhanced control over resource development in their territories. While the Crown has not formally recognized the Treaty 3 resource law, participants suggested that discussions on this Project must lead to formal recognition.
- In the territory around Akwesasne, the discussion focused on the environmental degradation that has already occurred to the St. Lawrence River. First Nation leaders are very concerned that further environmental impacts may irrevocably damage their land and waters. Their Treaty speaks of “living with the newcomers in a way that respects each other and the land upon which we all must live.” It is felt that this has not happened to date in any meaningful way.
- The written submissions of Aroland, Constance Lake and Ginoogaming First Nations described the damage to traditional territory caused by the Long Lake Diversion Project (1937-38) that saw the construction of two dams that significantly altered their traditional land and water systems to facilitate forestry and hydroelectric development. There is discontent with the lack of consultation with First Nations in the lead up to that project, and with the lack of benefit that has actually accrued to First Nations as a result of the project.

“The impacts of natural resources from traditional homeland territories provide a lot of money to support the tax base. However, First Nation communities have not benefitted socially or economically.”
(Participant, Timmins)

- Participants from Temagami First Nation told us of their ongoing land claim negotiations with the Crown. They wanted to know whether there would be compensation for the fact that traditional land was taken up by the existing pipeline in the absence of any consultation with them. They were also concerned that proposed settlement lands in the vicinity of the pipeline would be threatened by a spill or leak that affected the Sturgeon River Watershed.
- Some participants suggested that in order to demonstrate respect for the Treaty relationship there should be First Nation and Métis representation at the NEB, and further that any process to fulfil the duty to consult and accommodate must be jointly defined by the Crown (or its delegate) and First Nations and Métis to fulfil the concept of mutuality.

Duty to Consult and Accommodate

“There has been a steady accumulation of infringements being made denying us of our rights.... ENOUGH... there must be consultation and accommodation.” (Participant, Kanata)

At every Community Discussion we heard about long-standing frustrations with the lack of consultation, accommodation and benefit to First Nation and Métis communities arising from several previous infrastructure projects. Many participants cited the duty to consult requirement in Canadian Law, as developed by the Supreme Court of Canada, which requires that any government must consult with Aboriginal communities, particularly when making a decision that may adversely impact potential or established Aboriginal or Treaty rights.

Repeatedly, we heard concerns that little to no consultation took place with First Nations and Métis when TCPL’s Mainline System was first constructed, and that little to no benefit from that endeavour has accrued to First Nation and Métis people. At the same time, these same communities have borne significant risks. It was made clear that this will not be acceptable in the case of this Project.

There is anger and annoyance among some First Nations and Métis who feel that they have participated in “siloes” discussions with various provincial entities on numerous matters, but do not believe that their position is understood, that their feedback is shared across the “silos”, or that their needs are being addressed. As one participant put it, there is “no faith that [the Province] will do better this time.” A written submission from Wabigoon Lake Ojibway Nation expressed frustration with the perceived failure to establish a government-to-government relationship when discussing matters that affect their traditional territory.

Participants demanded full participation in discussions regarding this Project given its impact on the land that First Nations agreed to share, and that the Crown fully uphold the Treaty and legal Nation-to-Nation relationship with the First Nation and Métis people. In particular, they demanded an equitable sharing of the Project’s risks and benefits, and that any potential adverse impact on Aboriginal or Treaty rights must be offset.

At the time of our discussions, the federal Crown had not yet outlined its plan for, or delegated its obligation to, consult with First Nation and Métis communities. Notwithstanding this, First Nation and

Métis communities expressed significant concern that this duty will not be fulfilled in any meaningful way (see further discussion below).

Many noted the complexity of the process currently underway to propose, review, consult on and assess the Project. There is an overall sense of confusion about the Project itself, about the application, review and approval processes, and about the purpose of the many discussions that are taking place with TCPL and the OEB. Some participants also expressed wariness about the interactions they have had with TCPL to date.

There were also comments relating to the assertion that the approval of the pipeline rests solely with the federal cabinet and that the OEB's consultation process does not fulfil the federal Crown's duty to consult with First Nations and Métis. While this may be true of the project at a national level, many argued that the Province's role in regulating the pipeline's operations is significant and should not be understated and that it too has a duty to fulfill to consult and accommodate in the execution of that oversight.

*"While the National Energy Board is the approval agency for the physical pipeline, Ontario Crown agencies, agencies that have the duty to consult and accommodate these First Nations, will have approval responsibilities for the power and transmission facilities required to supply the pumps with the energy required to move the oil in the proposed pipeline.... without Ontario approvals, the oil in the pipeline cannot flow through the province."
(Aroland, Constance Lake and Ginoogaming First Nations written submission)*

The challenges posed by the process are seen as severely compromising meaningful consultation and accommodation. In particular, four major problems emerged from the discussions:

1. The lack of information about, and therefore understanding of, a very complex process and Project;
2. The lack of both transparency and completeness in the process to date;
3. The aggressive timelines relative to the need to collect and analyze complex data; and
4. Frustration with the lack of a good faith negotiating framework.

Lack of Information

*"We can't make a sound decision until we know what is involved in converting a pipeline from gas to oil. Where do we get this information? Whose job is it to provide the answers?"
(Participant, Kanata)*

At the time of our Part One Community Discussions, TCPL had only filed a Project Description with the NEB, summarizing preliminary information prior to the filing of a detailed application. The complexity of the subject matter and the lack of detailed information, particularly given the tight timelines, prompted repeated calls for greater transparency on the part of TCPL as well as the federal and provincial governments. Participants made numerous requests for more detailed information relating to the Project in a number of areas including: routing; water mapping; environmental impact; pipeline safety; inspection protocols and emergency response plans. There were also requests for more detailed information regarding the consultation processes.

Many participants expressed the need to support First Nation and Métis communities in understanding the volumes of scientific and technical data that will form part of the Project application. We were advised that some communities have received capacity funding to assist them in doing this evaluation. We did not inquire about the specific nature and/or extent of First Nation and Métis communities' communication with and support from TCPL.

We understand that TCPL has conducted numerous Open Houses and information sessions. Many expressed dissatisfaction with the level of detail of information provided at these sessions. For example, some stated that the maps were inadequate in depicting both the pipeline route and the waterways crossed. This issue is perceived as being particularly troublesome because of the significant number of waterways and wetlands along the Project route. Participants commented that the maps neither illustrated all of the water tributaries that are potentially affected, nor their interconnectedness.

- The Pic River First Nation has significant concerns about the water flow through its territory to Lake Superior and the potential impacts of a spill or leak. There are concerns that TCPL's maps do not accurately depict the area and therefore Pic River First Nation has independently commissioned the creation of detailed and accurate watershed maps. As Pic River First Nation draws its drinking water from groundwater wells located less than a kilometer from Lake Superior, there are concerns that a spill or leak will have serious impacts on the land and its people.
- In Nipigon we heard very clearly that it is imperative that TCPL visit individual local communities to directly provide information to them, appreciate their specific circumstances, answer questions from residents, and inform future negotiations. In particular, participants expressed concerns that the entire process is dismissive of the traditional processes and protocols that are important to First Nation and Métis communities.
- In Kanata, participants expressed concern that no information had been provided with respect to what will happen at the end of the pipeline's useful life. They suggested that this issue be fully addressed in the detailed Project application.
- For many, there is a desire for greater transparency in the analysis of the impact of the Project on Ontario's energy supply situation (both natural gas and electricity supply). Specifically, several parties expressed concerns regarding the adequacy of electricity transmission capacity to serve not only the incremental needs of the Project for the pump stations, but also the needs of current and future First Nation and Métis communities and to support economic development (e.g., mining opportunities). Further, there were questions as to who would bear the cost of adding incremental transmission capacity for these purposes. Others expressed similar concerns with respect to the

"We – First Nations communities, other members of the public and the province – need more clarity on the technical specifications and reports behind this work. There are too many unanswered questions: How do you construct a pipeline so it doesn't crack? How many seams are there in the line? What precautions are built in to prevent leakage? If there is a rupture in the line how quickly can it be shut down? How far apart are the safety valves?" (Participant, Kanata)

impact on natural gas supply and pricing arising from the removal/decommissioning of one of the gas pipelines (see further discussion below).

Lack of a Clear and Transparent Process

In addition to the request for the provision of more information on technical content, many demanded more clarity around the process of consultation. There is confusion as to exactly who has the responsibility for the duty to consult, particularly given that several parties are already speaking to various communities and that TCPL is discussing the Project at public meetings and with individual communities.

Many expressed the view that environmental protection laws, including the rules governing participation in pipeline review processes, have been weakened by the federal government. Several participants noted that these changes had been passed via omnibus legislation expressly for the purpose of making projects such as this one easier to implement. Several spoke of their dismay over the lack of an available democratic process for them to participate meaningfully in the NEB approval of the Project.

- Many participants believe that consultation should be more comprehensive. In Nipigon, some participants felt that while they are members of a community, their opinion could not be construed as being representative of the views of the entire community. Even Band Council members were hesitant to speak on behalf of a community without having had the time to share and discuss Project information with their members, elders and Chief, and to consider their input. This concern was echoed in Kanata, where participants requested that the Part Two meeting be held in Pembroke so that the local community members in that region could participate more easily.
- In both Kenora and Nipigon, participants explained the important role of mothers and grandmothers in the First Nation and Métis culture, suggesting that their input should be explicitly sought out and considered.
- Many participants suggested that meetings should be held at the First Nation and Métis communities so that more residents could participate and be informed. Others argued that consultations should take place with specific band members, such as women and grandmothers.

Timelines

*“The timelines need to be more forgiving. This is too important a decision to rush through.”
(Participant, Kanata)*

TCPL and NEB’s timelines and expectations are inconsistent with those expressed by the First Nation and Métis participants. Concerns were expressed about the timeline set for review of the Project. Many expressed dismay at the speed at which the “consultative” phase (both TCPL’s and OEB’s) of the Project was expected to be completed, and felt that it was unrealistic to expect communities to understand and respond to such a complex Project within the planned review timeline. Moreover, participants were concerned that this timeline did not provide enough time to complete, assess and integrate Traditional Ecological Knowledge (“TEK”) Studies. By imposing such timelines, participants suggested that these

consultation efforts are meaningless and amount to little more than “lip service”, thus contributing to the feelings of disrespect. Participants see the OEB First Nation and Métis Community Discussions as an opportunity to relay these concerns to both the Minister and, through the Minister, to the NEB and the Federal government.

- In Nipigon, there was a discussion of one instance where capacity funding was offered to a community in February 2014 to conduct a TEK Study. However, the offer required that the study be completed by April 2014 for it to be considered by TCPL. Many acknowledged that a TEK Study should observe, measure, and record the characteristics of a natural environment over time and specifically, in Aboriginal culture, over a “thirteen moon” cycle.

Lack of Requisite Conditions for Good Faith Negotiation

“We need principled negotiations on both sides as we go forward.... There will not be peace if both sides are not acting in good faith.” (Participant, Kenora)

Participants believe that the flawed nature of the current NEB approval process for the Project impairs the ability of individuals to understand the impacts and negotiate settlements that are equitable, supported by their communities, and commensurate with the risk of the Project. Some participants stated that there was no accommodation that could possibly mitigate the environmental and related threats that the proposed Project poses, and that they will oppose the Project.

- Participants in Thunder Bay spoke of the requirement for further participation by, and compensation to, First Nations when additional territorial land is required for access to the pipeline and construction of new pump stations.
- In Nipigon, participants discussed the need to negotiate new Rights of Way (ROW) and, where there is already a ROW in place, to renegotiate it based on changes to land use that will occur as a result of the Project.
- The Kanata session involved the Algonquin group of nations whose territory is along the Ottawa/Mattawa River system. There is no treaty in this area (though negotiations are ongoing). Participants believe that the underlying Aboriginal title may mean that negotiations with TCPL will have to include the Crown in a very meaningful way. Participants suggested that this would raise additional issues and complexity in this area that may not exist in other parts of the province. Further, they believe that the results of any Project negotiation may significantly affect the ongoing Treaty negotiations.

*“Algonquins are in the thick of Treaty negotiations with the Federal Government. This puts us in a unique situation that is affirming a broad range of issues related to harvesting rights, land selection, heritage sites, etc. The fact that government is making decisions about our land while we are negotiating is a real concern. This may inevitably affect the negotiation table.”
(Participant, Kanata)*

INEQUITABLE SHARING OF PROJECT RISKS RELATIVE TO REWARDS

"We are taking on a whole lot of risk for a whole lot of nothing." (Participant, North Bay)

All communities expressed significant concerns regarding the Project risks. For many, there was no accommodation or benefit that could outweigh the potential risks associated with the Project. Indeed, despite an apparent openness to further discussion on the part of the majority of participants, there appears to be consensus that the perceived risks of the Project outweigh any possible benefit for Ontario. Overall, we heard about environmental and energy supply risks, and a deep skepticism about potential employment opportunities or other economic spinoffs arising from the Project.

There is a strong desire to fully participate in discussions regarding this Project, and for the Crown to uphold the treaty-defined nation-to-nation relationship with the First Nation people. In addition, there is a demand for the equitable sharing of Project risks and benefits, and an offset of any potential threat of adverse impact on Aboriginal or Treaty rights.

Environmental Risks

"If you destroy the environment once, you destroy it forever." (Participant, Kenora)

The potential risks to the environment were top of mind in every Community Discussion. These concerns were expressed in the context of the sacred duty of First Nations and Métis to protect the land and the water today and for future generations. However, participants also emphasized that the protection of the land and the water, and the responsible use of natural resources, should be a concern of all Ontarians. Many participants also noted that their interests extended beyond Ontario, expressing concerns about "their brothers and sisters across the country who stand to be affected by the Project."

*"Many of the concerns raised during the Ring of Fire consultations are similar to concerns about the pipeline. How will the government protect the land? When will the First Nations community benefit from the resource development initiatives?"
(Participant, Timmins)*

In addition to concerns about direct local impacts and risks, concerns were expressed about the impact of the Project in Alberta due to the increased extraction of crude oil from the Alberta oil sands. Participants spoke of the threat that this posed to Alberta's First Nation communities due to the impact on boreal forests, the threat to the water and land, and the increase in greenhouse gas emissions. Participants felt that this should be of concern to the NEB as it considers the application by TCPL.

- Pic River First Nation requested that the Province, through the Ministry of Environment, designate this project for an Individual Environmental Assessment, coordinated with federal regulatory review processes, so that there is a comprehensive and coordinated approach to Ontario's suite of regulatory review processes and a common body of environmental assessment and regulatory review knowledge. (Pic River First Nation written submission)

- This suggestion was echoed by Aroland, Constance Lake and Ginoogaming First Nations who suggested that an Individual Environmental Assessment under the Province’s Environmental Assessment Act would be an appropriate mechanism to facilitate a thorough review of the impacts of the energy components of the project on the environment, economies, social systems and Aboriginal rights and interests.

Risks to the Water and the Living Creatures it supports

Water is the blood of Mother Earth. My duty is to protect the water. Valves won’t protect the water. A valve every 20 or 30 kilometers is not enough for me. If there is a serious leak the world will be forever changed.... We will always need water and I want the water to be protected.” (Participant, Kanata)

All environmental concerns expressed by First Nation and Métis participants flowed from the risk of contamination of vital waterways that would be caused by an oil leak or spill. Polluting the water threatens the fish, animals and plants that are critical to the Aboriginal culture and way of life, as well as human health and well-being.

Individual participants spoke knowledgeably and passionately of the impact that contaminated rivers and streams would have on their community and daily lives.

- Concerns were expressed regarding the potential to endanger speckled trout, which is a sacred fish in the Red River, and sturgeon, which is harvested from the Nipigon River. Threats to other species, including plants and berries that grow near waterways and are used for medicine and food for animals were also discussed, as was the impact on hunting and trapping.

Since First Nations and Métis rely on the earth for their food and sustenance, there were also questions as to whether there have been any studies regarding the effect on humans who ingest fish, plants, and animals that have been contaminated by water polluted by an oil spill.

All participants felt strongly that attention should also be given to understanding the impacts on communities upstream and downstream of a potential leak or spill site.

*“Once oil gets into the water it changes the water table, it changes and impacts the whole chain of life.”
(Participant, North Bay)*

- In Nipigon, for example, a participant pointed out that a leak or spill in or near either Long Lake or Pic River (or any number of waterways), which flow into Lake Superior, would eventually make its way to that lake. Similarly, if there were to be a spill in Lake Nipigon, the spilled product could make its way to Lake Superior in a very short amount of time (i.e. within thirty minutes), because of the speed of the water’s currents.

Risks arising from the Conversion from Carrying Gas to Carrying Oil and Concerns about the Technical Integrity of the Pipeline

In every Community Discussion, questions were posed regarding the viability of re-purposing an aging pipeline built to move natural gas, not transport crude oil. Participants want assurances based on evidence that such a conversion is feasible. In particular, there were many technical questions raised about the composition and technical integrity of the existing pipeline, particularly given its age.

Participants want detailed information about the type and thickness of the metal that the current pipeline is made of. They also want information about whether and what type of ongoing integrity testing would take place to ensure that the pipeline is not compromised by cracks or wear, particularly relative to the carrying of varying types of oil rather than natural gas. Participants also requested evidence based on research conducted on the history of oil pipeline ruptures, and how this information is being used to inform the Project.

- Several participants stated that issues related to environmental and pipeline safety are equally as important in areas where the pipeline is being converted as in those areas in Eastern Ontario where new pipeline construction will take place.
- Participants also sought technical details about the material and processes involved in building the new portions of pipeline in Eastern Ontario.
- Some participants expressed a concern that, in an effort to keep costs down, TCPL might not opt for the highest available quality products or building processes. In all discussions about pipeline integrity, participants urged that safety, not cost, should be the driving factor in decision-making.
- Several participants called into question TCPL's record on technical and safety compliance, citing examples of past investigations and infractions and suggesting that this record be taken into consideration when reviewing this Project.

Risks related to the Project Route

*"If you were setting up a new oil pipeline, you wouldn't be putting it along the waterways."
(Participant, North Bay)*

Across the province, concerns were expressed regarding the location of the pipeline. Many noted that the preliminary Project Description suggests that attention will be paid to significant waterways; however, there is no clear definition of what is meant by "significant." Some proposed that dual piping should be a mandatory requirement imposed on TCPL for those portions of the route that is over and through waterways. Others suggested that the existing pipeline should be re-routed where it crosses, or is in close proximity to, major waterways.

- In Thunder Bay, we heard that the pipeline essentially follows the boundary of the Bingwi Neyaashi Anishinaabek First Nation reserve, and that any spill would have a negative effect on hunting and fishing particularly given that all streams flow into Lake Nipigon.
- In Timmins, there was significant concern for the many watersheds potentially affected, particularly the Arctic watershed.
- In Eastern Ontario, concerns were expressed about the location of the pipeline, given its proximity to the St. Lawrence River.
 - In Akwesasne/Cornwall, it was suggested that the pipeline be moved northward so that it follows the railway eastward instead of paralleling the St. Lawrence River so closely.

Pipeline Safety, Monitoring and Emergency Response

“We will be the first to be affected when something goes wrong. We want proper resources in place to be able to respond to an emergency.” (Participant, Nipigon)

The issue of pipeline safety, integrity and monitoring is a significant concern, particularly for those who live in close proximity to the existing line. Despite being aware of numerous assurances that have been given regarding the safety of transporting oil by pipeline, all participants spoke of “not if but when” a leak or spill happens.

There are concerns about the pipeline monitoring process, and also about the lack of understanding (and details) regarding plans to both train personnel and provide resources to local communities to assist in clean-up and restoration. The following is a summary of key questions that were posed, as well as suggestions from participants on how to address some of their concerns.

- Participants inquired about the material composition of the pipeline, including whether it is built—or can be made to withstand—extreme weather conditions. It was argued that the impact of extreme freeze and thaw cycles is an even more serious concern given that the pipeline would be transporting several different types of crude oil.
- There were questions as to the depth of the existing pipe over the varying topography of the province, and whether these depths are appropriate given the change from moving gas to oil (and in particular given the freeze and thaw cycles).
- Participants asked whether increases in the volume of oil transported through the pipeline over time would increase the safety risks. They questioned whether there is a maximum load that can be handled by the pipeline in any given day or year, and whose responsibility it will be to monitor that this is complied with.
- Many participants suggested that the OEB and NEB commission an independent safety review of the Project rather than rely solely on studies cited or submitted by TCPL with its application.

- There were also many questions and concerns about what will be transported through the line at any given time (crude, diluted bitumen, etc.). Participants want more information about where the oil will originate and the nature of the product. They felt that this could impact the level of safeguards that would be needed. Participants did not feel that they had sufficient information, knowledge or expertise to fully appreciate the implications of the various types of oil products that could be transported through the pipeline.
- Participants argued that they would bear the safety risk of increased volumes, while the economic benefit would accrue to big corporations and the Canadian government. Many participants talked about the need to work with local communities during conversion and construction, and the importance of continuing to work with and keep local communities engaged and informed during operation. Numerous participants throughout the province wondered whose responsibility it would be to monitor the Project for safety, during construction and operation.
- Participants want to know whose responsibility it will be to ensure and report that all safety conditions are met. More importantly, they queried who will ensure that TCPL is transparent in its operations, particularly as it regards leaks and spills and potential threats to local communities.
- There were questions regarding the reporting of pipeline deficiencies, leaks or spills, including how communities would know the chemical composition of the leaked substance itself.
- Participants wanted to know how far apart the safety valves would be placed, how their performance would be monitored and how quickly they could be activated so as to shut down the flow of oil in the event of leak detection.
- Participants also suggested that manual valves and block valves should be used, as an additional safety measure.
- It was suggested that the NEB insist on the highest frequency of inspections possible and the highest calibre of technology and notification protocols available, irrespective of the cost to TCPL.
- Participants want to know how First Nation and Métis communities will be apprised of the composition of the oil flowing through the pipeline so that they were in a constant state of readiness to respond. It seemed inappropriate to many that the onus would be on individuals in First Nation and Métis communities to monitor websites and other such publications for this critical information. Many feel that it is a matter of public accountability, and human and environmental safety, and that the information should be provided directly to them in a timely and effective manner so that appropriate measures could be taken immediately should a spill occur. There was considerable scepticism among First Nation and Métis people that their concerns and interests on these and other issues would be considered and addressed.
 - Participants wanted to ensure that there were requirements for TCPL to report publicly on these matters on a regular basis.

- Many asked that it be made mandatory that the closest affected communities be notified immediately of a leak or spill, regardless of the size.
- One written submission suggested a public web page where TCPL's digital monitoring of the pipeline would be available. (Individual Métis citizen, written submission)
- Participants questioned whether industry standards exist with respect to requiring or building capacity to ensure the ongoing availability of local emergency response resources. It was suggested that these standards should be required, to ensure appropriate protection of the areas through which the pipeline passes, including the timely availability of local emergency responders who would be first to respond in the event of an emergency.
- Participants want assurances from TCPL that emergency response times will be minimized. They also want assurances that local responders will be trained on how to respond to a leak or a spill and be informed of the nature of the product that was moving through the line at the time of the spill so they can execute the appropriate response (they believe that some products are more difficult to clean up than others and may pose more challenges and dangers).
- There were concerns that small, rural or poor communities will not have the resources to equip emergency responders appropriately.
 - Participants believe that TCPL should fund the provision of equipment and supplies, and the ongoing testing and maintenance of these resources, so that local first responders are prepared at all times.
- There were suggestions that TCPL also be required to establish a sizeable contingency fund to ensure that the cost of any potential clean-up is not borne by local residents or the government.

Risks to Ontario's Energy Supply, Security and the need for a larger energy plan

Participants do not feel that sufficient information is available at this time to understand the impact of the Project on Ontario's supply and price of energy—oil, natural gas or electricity. In fact, several participants cited concerns that the Project could jeopardize already limited access to electricity transmission capacity in some communities. Similarly, other industries such as the mining industry questioned the impact of the Project on their access to natural gas and electricity supply, and raised issues about the risks posed to their economic ability to do business.

Some participants raised concerns about the potential negative economic impacts of the proposed Energy East Pipeline on the price of natural gas delivered to Ontario and are worried that the conversion would result in a reduction in the amount of natural gas flowing west to east. Others noted that natural gas was already costly in northern Ontario and that the price may rise if the pipeline is converted from transporting gas to oil (which might require the construction of new gas pipeline, the cost of which would be passed on to consumers).

There were many comments about the widely held perception that oil being transported will not be for the benefit of Ontario, but rather is intended for distribution to foreign markets. This does nothing to enhance the availability of diverse supply sources for Ontario customers.

There were also a number of participants who suggested that this Project is being considered without appropriate thought to Canada's energy needs, now and in the future. For this reason, many suggested that Federal and Provincial governments, together with First Nations and Métis should develop a national energy plan to deal with these matters in a systematic and comprehensive way.

Uncertain Benefits

*"There are real concerns that the pipeline conversion will leave the iron ore industry short of natural gas..."
(Participant, Thunder Bay)*

*"This will require a lot of energy...about 300 megawatts of power to feed these [pump] stations. Is there capacity in the line to feed these stations? Is there capacity in the Aboriginal community to build these stations without tying into the grid? Is the supply of power part of the discussion?"
(Participant, North Bay)*

*"The Canadian government has to sit down with the provinces, communities, First Nations and talk about a national energy plan. These things need to be done in a systematic fashion."
(Participant, Nipigon)*

"We are not against any economic ventures that are of benefit to this country. It's a great country. But we want to participate, we want to benefit from it, we want to share the revenue." (Participant, Nipigon)

While every participant acknowledged the economic significance of the Project, some felt that the Federal government and corporations stand to benefit the most, while the local communities would benefit very little and be put at risk. Most believed that the employment opportunities would be short term.

The overwhelming sentiment expressed by the First Nation and Métis participants is that the perceived risks associated with the Project far outweigh any potential for benefit to their people. For many, perceptions are driven by an overall lack of information regarding details of the proposed benefits of the Project relative to their community.

Notwithstanding the lack of available information, several suggestions were made to help ensure a more equitable sharing of any potential benefit with First Nation and Métis communities.

- Although many acknowledged that TCPL has said it will not enter into any revenue sharing agreements with First Nation and Métis communities, participants were dissatisfied with TCPL's current position and stated that this would be of interest.

- There was the suggestion that some communities might benefit from compensation in exchange for granting access to traditional and treaty territory for any of the following purposes: building pump stations; building electricity generation and transmission facilities for pump stations; integrity testing; any reinforcement required in the converted section of the pipeline and for the planned new portions of the pipeline.

*"There is a lack of understanding of the real economic benefits/ opportunities linked to this proposal. Any potential economic benefits appear to be short-term in nature related to the construction of the pump stations."
(Participant, Timmins)*

- Most participants believe that the Project offers little in terms of long-term job opportunities for First Nation and Métis communities. While there will be construction jobs associated with the building of approximately 30 new pump stations throughout the province, any economic benefits would be short-term.

"There are a lot of skilled men and women on the reserves but [they] are not members of a union and therefore lose out on employment opportunities." (Participant, Timmins)

In addition, some participants expressed fears that unionized workers will have first priority in filling any jobs, leaving little opportunity for First Nation and Métis people.

- Many suggested that TCPL recruit and train First Nation and Métis youth for pipeline monitoring, maintenance and repair jobs that may offer longer-term employment opportunities if and when the Project is approved and completed.
- Ontario was encouraged to focus its efforts on enabling economic and business development opportunities for the First Nations most directly impacted by the pipeline – including, but not limited to, opportunities involving power generation and transmission line infrastructure.

"It's time we took a serious look at some ongoing revenue, like tolls and levies, that will continue to provide some benefit to First Nation communities. For the amount of risk we are taking, we need to get some benefit." (Participant, North Bay)

- Some questioned not only the opportunities for First Nation and Métis communities to benefit, but also

Ontario's share of any benefits from the Project.

- There were suggestions that the Province should charge TCPL tolls or levies in exchange for providing a throughway for oil destined for foreign markets.
- One Métis participant in Eastern Ontario suggested in a written submission that TCPL be required to invest in other supportive infrastructure such as local hospitals, educational institutions and community support agencies to ensure the Project can support healthy communities. (Individual Métis citizen, written submission)

“Ontario has a very clear stake in all of this.... The province stands to benefit directly from this project through taxes, revenues, etc. These considerations place the province in a position of significant power and risk if concerns are not adequately addressed.” (Participant, Kanata)