THE ENERGY EAST PIPELINE IN MANITOBA:
AVENUES FOR GOVERNMENT ACTION
OUTSIDE THE BROKEN NEB PROCESS

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MARCH 1, 2016
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MEJC is an alliance of Manitoban community groups and individual supporters committed to defending the lands, air, and waters in Manitoba by working to reclaim and protect our environment and promote social justice in the energy sector. Groups work independently on many issues, and we come together through this coalition to advance a shared vision and mission related to eliminating fossil fuels, protecting watersheds, and promoting resource equity in Manitoba. We are committed to working in solidarity with other front line and fence line communities directly affected by fossil fuels. We are based in Manitoba/Treaty 1 territory. We support grassroots opposition in Treaty 3 area.

ACKNOWLEDGMENTS

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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary</td>
<td>01</td>
</tr>
<tr>
<td>Introduction: Shortcomings of the National Energy Board as Pipeline</td>
<td>03</td>
</tr>
<tr>
<td>Regulator</td>
<td></td>
</tr>
<tr>
<td>Climate Change</td>
<td>05</td>
</tr>
<tr>
<td>Manitoba Hydro’s “Clean” Energy and the Energy East Pipeline</td>
<td>08</td>
</tr>
<tr>
<td>Economics</td>
<td>10</td>
</tr>
<tr>
<td>Climate Costs</td>
<td>10</td>
</tr>
<tr>
<td>The Inevitability of Constraint</td>
<td>10</td>
</tr>
<tr>
<td>Climate Costs in Manitoba</td>
<td>13</td>
</tr>
<tr>
<td>Jobs</td>
<td>16</td>
</tr>
<tr>
<td>Safety and Environment</td>
<td>18</td>
</tr>
<tr>
<td>The Winnipeg Aqueduct</td>
<td>20</td>
</tr>
<tr>
<td>Other Provinces and Municipalities</td>
<td>22</td>
</tr>
<tr>
<td>British Columbia</td>
<td>22</td>
</tr>
<tr>
<td>Municipal Response in British Columbia</td>
<td>24</td>
</tr>
<tr>
<td>Quebec</td>
<td>25</td>
</tr>
<tr>
<td>Municipal Response in Quebec</td>
<td>27</td>
</tr>
<tr>
<td>Ontario</td>
<td>28</td>
</tr>
<tr>
<td>Municipal Response in Ontario</td>
<td>30</td>
</tr>
<tr>
<td>Revisiting the NEB Problem</td>
<td>31</td>
</tr>
<tr>
<td>Reaching a Place of Climate Health and Safety</td>
<td>34</td>
</tr>
<tr>
<td>Recommendations</td>
<td>35</td>
</tr>
<tr>
<td>Bibliography</td>
<td>36</td>
</tr>
</tbody>
</table>
FIGURES

Figure 1. Social Cost per metric tonne of CO2 .................................................. 12
Figure 2. Present Value of Externalized Costs of GHG Emissions, 2018-2043 ...... 12
Figure 3. Energy East Revenue vs Flood Costs in Manitoba.......................... 13
Figure 4. Job Creation From Energy East.......................................................... 16
Figure 5. Interaction of Energy East pipeline and Winnipeg Aqueduct .......... 20
EXECUTIVE SUMMARY

This report explores additional regulatory and public intervention options, external to the National Energy Board review, that are available at the subnational level for assessing the Energy East pipeline project. The report is especially concerned with climate and environmental impact, and the threat to the Winnipeg aqueduct. Based on the research in this report, MEJC recommends:

- Move the pipeline away from the Winnipeg aqueduct, other drinking water sources, and natural gas lines
- Request the PUB to open an investigation into the safety of the Winnipeg aqueduct
- Request the Clean Environment Commission under its own authority to initiate an investigation into the implications of Energy East
- Carry out public education through the media of hearings (during the CEC and PUB assessments), open houses, pamphlets and flyers at political offices, and press statements.

Many Canadians consider the National Energy Board process for approving and setting conditions on pipeline proposals to be inadequate and biased; but it is also often seen as the only way for citizens and subnational governments to participate in the assessment process. Provincial climate and environmental policies provide regulatory mechanisms that may provide Manitoba with the ability to impose conditions on Energy East. Particularly in the context of a carbon-constrained world, subnational governments should look for other ways to exercise their authority to protect citizens and the environment.

With the recent multinational recognition at the IPCC that climate change must be addressed immediately, the impossibility of more pipelines becomes obvious. The research draws attention to the fact that the downstream effects of carbon carried by Energy East far outweigh the questionable economic benefit of the pipeline.

In Manitoba, climate related flood costs rise every year, and the need to transition to a clean, green economy was recognized in the province’s December 2015 climate change strategy. The province’s abundance of "clean" hydro is important to the strategy. This report highlights the contradiction implicit in the province’s intention to sell clean hydro at low rates to power Energy East pumping stations.

Social license for pipeline projects is increasingly important, and the voices of grassroots resistance are having a significant effect. In B.C. and Quebec, a surge of anti-pipeline sentiment led to formal statements of opposition on the part of dozens of municipalities, including the Communauté Metropolitaine de Montreal and Metro Vancouver. While these statements do not carry legislative authority, they are very effective in opening the public conversation and forcing TransCanada to respond to concerns.

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The immediate potential for damage to our precious water resources in the event of pipeline failure should be enough on its own to give decision makers pause. There is a 15% per year risk of a full bore rupture on the Energy East line, and a far greater risk of ongoing, slow leaks that invisibly poison the water supply.² Maintaining the safety of the Winnipeg aqueduct is an obligation for provincial and municipal governments. The questions must be answered: how will Winnipeg and Manitoba ensure that in the event of a dilbit leak, a full bore rupture, or ongoing undetected leaks in the area of the aqueduct, there will be adequate safe water for the city? How will a cleanup and remediation of the aqueduct return the boggy area to purity? Will the aqueduct ever be safe to re-open?

INTRODUCTION: SHORTCOMINGS OF THE NATIONAL ENERGY BOARD AS PIPELINE REGULATOR

Pipeline projects, including the Energy East pipeline, are losing traction across the country. Municipalities are passing resolutions to protect their citizens and environments from pipeline risks, provinces are developing climate solution policies and establishing conditions for pipeline development, and people are gathering in grassroots organizing to oppose expanded tar sands and more pipelines.

As one way of attempting to ensure that the proposed Energy East pipeline is not harmful to Manitobans, the province has applied to be an intervenor in the National Energy Board (NEB) hearings. The NEB project review is the primary system for appraising the worth of pipeline projects, and setting conditions for their construction. A Sierra Club report on the NEB process for Kinder Morgan’s Trans Mountain Expansion Project (TMEP) found that the NEB had several deficiencies, and had been “widely criticized for failures in process, for limiting participation, and for a lack of accountability and fairness.”

Despite widespread public opposition to pipelines, the Board no longer allows the kind of public engagement that would ensure citizens affected by tar sands expansion can bring their concerns to the decision making. For the TMEP review, out of 2,118 total applicants, only 400 were granted intervenor status, while 452 who had applied as intervenors “were 'downgraded' to commenters.” When questioned, the Board admitted to “reviewing print and social media to see if applicants were openly critical of the Panel.”

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4 Ibid
5 Ibid, 2.
As well as limiting public participation, the Board also places restrictions on the topics that may be addressed during the review. Disregarding public requests and scientific evidence, the Board refuses to consider global climate emissions, climate change, and the cumulative or life cycle climate effects of the pipeline as factors in their approval process. At the 2015 International Panel on Climate Change in Paris, Canada—along with nearly 200 other nations—made a commitment to reduce Green House Gas (GHG) emissions sufficiently to limit global temperature rise to 1.5 degrees above pre-industrial times. Pipelines allow for the expansion of exploitation, and the Energy East pipeline facilitates expansion of tar sands production by 40%, expediting a rise of tar sands emissions “from 70 to 100 million tonnes a year.”6 The increased emissions would be permitted under Alberta’s recently announced climate plan,7 and would end any possibility that Canada could reach its “laudable and ambitious” climate target.8 Even more reprehensible is that Canada is allowing the expansion of exploitation without taking into account the effect of the pipeline and increased tar sands development on the rest of the world. Emissions occurring outside Canada must be accounted for, but the lifecycle emissions and climate implications of the pipeline are not part of the NEB review.

The Manitoba government’s intervenor application recognizes that the government “has a responsibility to its citizens to ensure that all is done to demonstrate provincial due diligence,” but limits the due diligence to “participation in the regulatory process.”9 The NEB is not grounded in the objectives of natural justice or public participation, and its regulatory process has become nothing more than regulatory tokenism. The NEB cannot work outside its mandate, but it is impossible to truly demonstrate due diligence within the NEB process.

However, the province points out that if Energy East were subject to the provincial Environment Act, “certain conditions...critical to the protection of human health and the environment” would be attached to any license granted.10 Manitoba’s application requests that the NEB consider these conditions in making its decision. If the NEB were set up to function for the benefit of all Canadians, Manitoba’s concerns would be thoroughly addressed within the process. There would be adequate opportunity for informed public consultation and contribution on the

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8 Ibid
9 Stendle, 2.
10 Ibid.
12 Ibid.
provincial and municipal level; and recognition that subnational governments have an obligation to protect their citizens’ interests.

The Manitoba government is aware of the inadequacies of the NEB. The government understands the risks associated with the pipeline and tar sands expansion, and the need to transition away from fossil fuels into a clean, just energy future. As a background for the recommendations of this report, we will briefly summarize concerns about climate change and the importance of divestment from fossil fuel infrastructure.

If the NEB were setup to function for the benefit of all Canadians, Manitoba’s concerns would be thoroughly addressed within the process.

“They recognize the NEB process is only one process…”

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The conversation about pipeline safety, economic impacts, and environmental risks must happen within the larger conversation about a world that is undergoing drastic, catastrophic weather events as a result of changes to our climate. The oil industry is now Canada’s biggest source of climate changing emissions, since crude oil and tar sands expansion caused energy sector GHG emissions to jump 70% from 1990 to 2012. At current rates, the world’s carbon budget will run out by 2050, and although Canada has made international promises to reduce emissions, it has repeatedly failed to meet its targets.

The Paris Agreement will become yet another failure in Canada’s climate action record if Energy East, or any tar sands expansion projects, are allowed to proceed. A study published in the January 2015 edition of Nature “looked at the most cost-effective way for fossil-fuel development to proceed while trying to hold to the two-degree global target.” The study found that only 15% of tar sands crude, or 7.5 billion barrels, could be used by 2050 if we are to keep global warming below 2 degrees. The Energy East pipeline is intended to move 1.1 million barrels a day, or about 401.5 million barrels a year, and that alone “would hit the carbon budget of 7.5 billion barrels in just under 19 years.”

With the lower target of 1.5 degrees, the time frame would be even shorter.

The growth in emissions that would be caused by Energy East (32 million tonnes per year, according to the Pembina Institute) is greater than the province of Manitoba's entire emission inventory for its baseline year of 2005 (20.7 million tonnes). The province’s recently announced climate strategy includes a goal of becoming carbon neutral by 2080, twenty years too late for the international target set by the IPCC. Stopping the Energy East pipeline would achieve a much greater climate win that would exceed all of our efforts inside the province.

Emissions from the crude transported by the pipeline may appear less significant when viewed as a yearly percentage of global emissions; and emissions moment-to-moment could appear to be within regulations. However, the regulations don’t properly address the real issue of long-term life cycle emissions and bioaccumulation. Climate change cannot be constrained by a calendar, and emissions cannot be geographically segregated. The pipeline that carries dilbit through Manitoba also carries the responsibility for upstream and downstream effects of the dilbit. There is no room for the Energy East pipeline in a world that must curtail fossil fuel production and make a transition to a clean energy future if it is to survive.

“The Industry needs Energy East and other proposed pipelines in order to achieve their expansion targets for the tar sands. An increase to 5.8 bpd from the current 2 million bpd already has government approval.”

“The Kinder Morgan project could lead to the emission of 78.8 million tonnes of GHGs per year into the earth’s atmosphere...7.7 million tonnes would come from upstream tar sands production while a whopping 71.1 million tonnes would come from downstream processing, refining, overseas transport and final consumption of tar sands products.”

“No matter where carbon is burned, it all ends up in the same place: the earth’s atmosphere.”

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25 Ibid.
MANITOBA HYDRO’S “CLEAN” ENERGY AND THE ENERGY EAST PIPELINE

Manitoba would hold a particular responsibility for the climate effects of the pipeline. “1700 GWh of additional load will arise by 2019 from upgrades to pipeline pumping stations in Manitoba,” and the Keeyask dam will supply between 800 and 900 gigawatt-hours of energy per year (¼ of the dam’s average output and 1/3 of its dependable output) to power the pumping stations. TransCanada would pay for the electricity (at low industrial rates), but the cost of infrastructure like transmission lines would be borne by Manitoba Hydro, and paid for by Manitobans through their increasing hydro bills. The Energy East pipeline will require a “tremendous investment” from the people of Manitoba.

As far back as 2005, the Manitoba government was concerned about the cheap rates for this use of hydroelectric power. Bob Brennan (President and Chief Executive Officer, Manitoba Hydro, 1990-2011) told the Standing Committee on Crown Corporations that “what [the province] is doing” would “allow [TransCanada] to purchase electricity at a cheap rate and take away from our export sales and cost everybody a lot of money.”

Hydro rates for high-use industry like Energy East are much lower than for residential customers. Northern communities, often dislocated by Manitoba Hydro to make room for dams and other infrastructure, have the highest electricity bills in the province: three to five times higher and averaging $600 per month.

Manitoba Hydro has proposed a rate increase of 42% by 2024 to pay for the additional infrastructure needed to ensure the supply of surplus power for export sales, and reliable power for the pipeline pumping stations. According to Gloria Desorcy, the executive director of the Manitoba Branch of the Consumers Association of Canada, consumers seem to be “paying for the cost of poor estimations and lack of cost control” on the part of Manitoba Hydro.

With pipeline projects appearing to be a major driver of expensive and high risk new hydroelectric generation, coupled with the high societal and climate cost of bitumen, many

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31 Ibid
32 In the PUB NFAT Report, potential new pipeline load was a major factor in the alleged need for expensive new generation. “The biggest short-term uncertainty is whether or not 1,700 GWh of new pipeline load will materialize in Manitoba. This could change the
Manitobans have raised the public policy question of whether it is appropriate to provide relatively low Manitoba Hydro rates to fossil fuel industry customers. Some have argued that industries associated with high carbon usage should pay higher hydro rates in recognition of the societal costs imposed by their industry.

The June 2014 Public Utilities Board (PUB) Needs For And Alternatives To (NFAT) Review of Manitoba Hydro’s Preferred Development Plan, specified that after current project commitments are met, “no more money should be spent on any future generation or transmission projects -- including the proposed Conawapa mega-dam -- until the province comes up with a new plan for a clean-energy future that includes wind and solar.” Manitoba Hydro should not be engaged in longer-term planning that assumes unlimited economic growth in the oil industry, while disregarding the climate effects of hydro-pipeline partnerships.

The PUB has an ongoing interest in ensuring that new costs brought to the system by new energy intensive usages are fairly priced both in PUB tariffs and Hydro Service Extension rates. In relatively recent decisions, the PUB has expressed openness to considering whether it would be appropriate to charge higher rates and higher service extension fees to new industrial load entering the marketplace. In the context of natural gas extensions, Manitoba’s Climate Change and Green Economy Plan also recognizes the importance of the PUB taking the “value of carbon reduction” into account in making its determinations.

The province could enact legislative reform mandating express consideration of carbon costs in making a determination of “just and reasonable rates” under The PUB Act. The 2016 Cost of Service Review may provide an opportunity to examine the pricing of energy or carbon intensive usages and Hydro’s Service Extension rates. Higher hydro rates for the industry would more accurately reflect the carbon detriment costs and other liabilities associated with fossil fuel extraction, including the insurance costs of climate-related events. The Energy East pipeline in particular should be required to pay rates that would offset potential loss of hydroelectric power for export or domestic use. The additional revenue could be invested in sustainable energy development, used to offset the expense of providing power to northern communities, and applied to the costs of increased infrastructure.

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34 See for example, PUB Orders 116/08.
35 The PUB Act, s. 78 and 82. https://web2.gov.mb.ca/laws/statutes/ccsm/p280e.php
36 Ibid
ECONOMICS

CLIMATE COSTS

"There have been more catastrophic (events) lately. Climate and the weather have been playing havoc."  

All of the economic projections must be understood in the framework of climate change. The high cost of recent extreme weather events has contributed to enormous increases in insurance claims around the world and here in Manitoba.

"Since the 1980s the number of registered weather-related loss events has tripled; and Inflation-adjusted insurance losses from these events have increased from an annual average of around $10bn in the 1980s to around $50bn over the past decade."  

Dave Schioler, CEO of the Insurance Brokers Association of Manitoba, recognizes the impact climate change is having on insurance costs. "There have been more catastrophic (events) lately," he said in September, 2015. "Climate and the weather have been playing havoc."  

According to the Insurance Bureau of Canada, there has been a 72.3 per cent increase in personal property claims since 1995, for a total of $193.8 million in 2014. Vice President for the western and Pacific regions, Bill Adams, said "there’s no question" the increase is driven by changing weather resulting from climate change.

THE INEVITABILITY OF CONSTRAINT

There are different ways to look at the "inevitability of constraint" that underlies the new conversation about carbon emissions, economics, and climate change. Full cost accounting and recognition of life cycle emissions facilitated by the pipeline are key to the conversation. One view holds that to combat the effects of climate change for future generations, we must consider the economics of carbon over the long term. How much damage will a ton of carbon do over the coming years? How much is it worth to us now to avoid that amount of damage in the future?

38 Carney.
39 McNeil.
40 Ibid.
41 Teika Newton, Transition Initiative Kenora
A 2012 CCPA report examined the costs of GHG emissions associated with the Northern Gateway pipeline. Author Marc Lee pointed out “there are enormous market failures associated with GHG emissions” because of their global, decades-long effect. The report found that “the GHG emissions facilitated by the Northern Gateway pipeline—extraction and processing in Canada and combustion in China—could be in the range of 80 to 100 Mt CO2 per year. This is more than B.C.’s total emissions of 67 Mt in 2009.”

Using the same methodology to calculate emissions from the Energy East pipeline, we find that Energy East would produce an estimated 125 million tonnes of carbon dioxide per year, not counting emissions associated with construction: manufacturing and transport of steel pipe, and machinery and equipment on-site. Some experts estimate the total could be as high as 220 million tonnes per year. To identify the social cost of the pipeline emissions, an estimated dollar value must be selected for each unit of additional carbon. The CCPA-BC cites a range of $150 to $500 per tonne of carbon, based on estimates from the 2011 study, Climate Risks and Carbon Prices: Revising the Social Costs of Carbon. If we use a conservative cost of $50 to $200 per tonne rather than the higher range up to $500 per tonne, and apply that amount to the lower estimation of 125 million tonnes of carbon per year, the result would be a staggering $6.25 billion to $25 billion per year of externalized GHG costs from the Energy East pipeline. At a 3% discount rate, that is a total present value of $78.92 billion to $597 billion over 25 years.

There are many discount rates that can be used. What is a bird in the hand worth, in comparison to two in a distant future bush? The US Government’s Interagency Working Group (IWG) on the Social Costs of Carbon, in their 2015 updated model, produced the range of estimates shown in Figure 1. The IWG uses three models, five scenarios, and three constant discount rates to produce forty-five separate distributions for the global social cost of carbon. While the CCPA report assumes a constant value for the annual cost of carbon, the IWG range does not make this assumption. The IWG uses models that suggest a rising marginal cost per unit of carbon into the future.

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44 Lee.
AVENUES FOR GOVERNMENT ACTION OUTSIDE THE BROKEN NEB PROCESS

Figure 1 shows the averages of the estimates at each discount rate, for each five year period of the forecast.

<table>
<thead>
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Figure 1. Social Cost per metric tonne of CO2 ($2007 US) 45

The numbers assume that if the Energy East pipeline were not built, the oil would stay in the ground. It is a reasonable assumption to make. According to the CERI report, the future growth of Western Canadian oil production “would be constrained due to saturated demand in existing North American markets.” 47 Growth in output from the tar sands is dependent on increased transportation and export infrastructure.

A second view of carbon costs is more immediately focused. Rather than bargaining with the future to curb fossil fuel related climate change, we must change our course now. What price on carbon do we need if we are to kill the demand for fossil fuels sufficiently to meet IPCC targets? Assigning complex formulas to the enormous harm of climate change will not in any way control or reduce the problem. While we are figuring out how much our fossil fuel habits will cost our children, the climate is relentlessly changing. What present cost of carbon will make us willing to stop right now, detox, rehabilitate, and transition to clean energy, so that we don’t need to do the math?

Using the IWG’s numbers for each year from 2018 to 2043 (twenty-five years of the pipeline’s potentially longer lifespan) and the averages from all scenarios at each discount rate, the present value of the social costs of the additional carbon dioxide emitted from oil transported through Energy East would be as follows: 46

- 5.0%: $US 53,250,000,000
- 3.0%: $US 165,265,000,000
- 2.5%: $US 238,875,000,000

Figure 2. Present Value of Externalized Costs of GHG Emissions, 2018-2043 ($2007 US).

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46 Ibid
CLIMATE COSTS IN MANITOBA

“The storms last longer, occur more frequently and deliver more precipitation, which has economic fallout.”

The costs of climate change in Manitoba are easily seen each spring when flood waters inundate communities, farms, homes and wildlands. The waves of damage rise steadily higher and the costs rise along with the water levels. The numbers in Figure 3 put into some perspective the enormous financial costs of climate-related flooding.

Flooding in Manitoba has always happened, and always will. The rivers run their natural courses, doing what they need to do, and human habitation in the way will suffer as it always has. Now, however, the situation worsens with each new flood of the century.

The bigger, more intense floods are a direct result of the changes in Manitoba’s hydrological cycle; and the changes in the hydrological cycle come about when the world grows warmer. As the climate warms, water movement patterns change and accelerate, and the atmosphere absorbs more water vapour. When the increased energy created by the additional water dissipates, storms are born that cause “massive flooding on a scale we’re not used to managing.”

[Figure 3: Energy East Pipeline Revenue vs Flood Infrastructure Costs in Manitoba]

The accelerated global hydrological cycle means that we can no longer depend on stationarity, "the notion that there will always be approximately the same amount of water available in any given place or region as we have come to expect." When water behaves differently, so does weather.

The idea that fluctuations happen "within established limits" has always been the foundation of weather forecasts and long term climate calculations. Stationarity has allowed us to prepare for predictable, normal weather, and to take preventative measures in the face of occasional big events. As the climate changes, weather becomes less predictable, leaving populations inadequately prepared for more frequent, intense storms and floods. Bob Sandford, EPCOR Water Security Research Chair at United Nations University, told CBC’s Radio Noon that these kinds of extreme weather events could have "serious economic consequences for the province" of Manitoba.

The relatively new flood infrastructure in Manitoba was "designed for an early and more stable climate era." It can’t cope with the increased frequency and violence of floods today; and will not be able to cope with the storms and flooding of a future world that has warmed above 1.5 degrees Celsius. According to the 2011 Flood Review Task Force Report, the 2011 flood "nearly compromised" much of the flood infrastructure in Manitoba. "Only through a Herculean effort was the integrity of the dikes and diversion structures maintained over the course of the flood."

The financial costs of the 2011 flood were enormous: a billion dollars in Manitoba, and the same amount in Saskatchewan and North Dakota. Plans to mitigate inevitable future flooding include $495 million for outlet channels to move water safely through the Interlake by regulating water levels in Lake Manitoba and Lake St. Martin.

According to TD Bank, climate disasters will cost Canada $5 billion per year by 2020, and at least $21 billion per year by 2050. Manitoba, with its risky position in the vulnerable Great Plains region, will be facing its share of the colossal cost.

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51 CBC News, "Manitoba Infrastructure..."
52 Sandford.
53 CBC News, "Manitoba Infrastructure..."
Financial costs are only one consequence of climate change related flooding. The psychological and social damage is demonstrated every day in Manitoba with tragic situations like the soaring death rates in the dislocated Lake St. Martin First Nation community. With the increased flooding expected over the next decades, there will be more dislocation and resettlement of low-lying communities, and more suffering for the people of these communities. Floods are “now seen as a major threat to the economic future” of the Great Plains Region.

As one of the locally most visible results of changing weather patterns, floods serve as a reminder that Manitoba, and the world, cannot afford to pay the many costs of climate change. The Energy East pipeline, with its contribution to increased tar sands production, has no place in Manitoba’s plans to combat the ruinous economic and social effects of increased flooding.

The NEB’s review of the Energy East pipeline does not allow for any discussion of the social costs associated with the pipeline or with fossil fuel development. Nevertheless, both the province and City of Winnipeg should use their intervenor status to address the substantial economic impacts of climate change in this province, impacts that would only be exacerbated by the carbon release facilitated by Energy East.

The Province of Manitoba should prepare for the hearings by putting into place an immediate full-cost accounting system for the true costs of continued investment in fossil fuels. The specific costs associated with the Energy East pipeline, including the cumulative upstream and downstream effects, should be articulated so that TransCanada can be held responsible for the climate costs of the megaproject. TransCanada should bear the cost of its climate effects on Manitoba, and should be required to set aside funds to alleviate income and business loss, property devaluation and loss, and evacuation and relocation of families and communities.

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57 Sandford.
JOBS

“Canada's energy sector created only 1.7 per cent of all new jobs in Canada from 2007 to 2012. 94 per cent of the economic benefits of expanding the oil sands remain in just one province, Alberta.” 58

Pipelines do not provide significant long term employment. TransCanada's own numbers show that there would be very few jobs in Manitoba: 447 temporary, one-year jobs for six years, and about 70 jobs each year of the 40 year operational period. 59

Even these low numbers may be inflated. The rigorous analysis applied by the US Department of State to TransCanada's Keystone XL pipeline proposal indicates that there would be about 20% fewer jobs than predicted, and many workers are specialists brought in from elsewhere. 61

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60 Deloitte, 16.
A similar analysis commissioned by the Ontario Energy Board (OEB) on Energy East found that the pipeline could have a negative effect on the economy. According to the Mowat Centre, previous studies by CERI, Deloitte, and the Conference Board failed to include “any of the risks,” and “overemphasized the economic benefits.”  

There is no longer any question about the need to quickly change our oil dependent way of life. The truth is difficult. We must change so quickly that TransCanada’s economic projections for the 40 (plus) year lifespan of the pipeline cannot be accepted at face value. Some of the predicted benefits must be curtailed to reflect the reality of a changing world that cannot afford the cost of expanding fossil fuel extraction.

An analysis of the economics of Energy East is incomplete without recognition that new climate change policies (putting a price on carbon emissions, or subsidizing sustainable energy instead of fossil fuels) will reduce demand for fossil fuels and threaten TransCanada’s profitability. Even in the present economy, the energy return for oil is an incredibly low 4:1, compared to the much more robust 84:1 for hydro, making pipeline projects a questionable investment. An analysis must also consider the magnitude of costs associated with environmental and climate risks that lead to loss of jobs and business revenue.

To account for employment and business revenue losses, Manitoba should require a corporate guarantee from TransCanada that covers these costs regardless of TransCanada’s solvency. Funds could be directed towards sustainable energy projects and job training for at-risk and struggling communities, and could kick start a transition in Manitoba to a full employment, high return, and green economy.

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SAFETY AND ENVIRONMENT

There is no safe way to transport fossil fuels. More than that: there is no safe way to use fossil fuels. While toxic leaks in the pipeline are catastrophic to the ecosystems affected, our fossil fuel dependence is creating a global climate catastrophe.

The MEJC report, *Potential Impacts of the Energy East Pipeline on the City of Winnipeg*, discusses safety issues for both Winnipeg and the rest of Manitoba in detail. Here we will reiterate some of the top concerns about the threats to people and the environment in Manitoba.

The Energy East pipeline crosses many rivers, drainage basins, and aquifers in Manitoba, and runs within a spill zone of the Winnipeg aqueduct from Shoal Lake to St Anne. It threatens the safety of drinking water for Manitoba communities, including Winnipeg, Kenton, Rivers, Sioux Valley, Brandon, Neepawa, Portage and Sanford. In Manitoba, the Red River is considered to be a high hazard crossing, and the LaSalle River in St. Norbert (where the pipeline exploded in 1996, destroying a home over 100 metres away) is considered a moderate hazard crossing.

Have you considered…?

- True cost of accidents (not cleanup costs that will be paid by the company but liability and long term costs paid by society)
  - Downstream liability costs of the sulphur and petcoke in the pipeline
  - Agricultural costs from increased climate-change related extreme weather events
  - Liability costs associated with the ecocide in the tar sands
  - Increased healthcare costs for indigenous peoples as environmental toxins and loss of traditional food lead to diabetes, cancer and other illness

*TransCanada Natural Gas Pipeline crossing through St. Norbert near the site of 1996 explosion* • Photo by Ken Harasym

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TransCanada has an extensive history of pipeline failure, and their Energy East pipeline is projected to have a 15% chance of full bore rupture each year. 69 In the latest filing submitted by TransCanada, "obfuscated" numbers that confusingly refer to potential incidents in the context of a single kilometre of pipeline give the impression that pipeline failures would be very rare. However, when TransCanada’s own figures are applied in a clear way to the entire length of the pipeline, it turns out that we can expect a Stress Corrosion Cracking incident every 293 days along the Energy East pipeline path. There is also “a greater risk of a rupture along the converted portion of pipeline from Saskatchewan to Cornwall, ON compared to the new pipeline planned from Cornwall area to Saint John, N.B.” 70 The 40-year-old section of the pipeline that would be converted to carry bitumen is susceptible to failure, and the Transportation Safety Board has reported 10 serious ruptures in the Mainline system since 1992. 71

The pressure sensors can detect spills over 1.5% the capacity of the pipeline, or 2.63 million litres per day. This means that up to 2.63 million litres could spill in one day without being detected. More disturbing than this: there are small, methane-leaking holes and cracks in the existing natural gas pipeline creating constant, small, undetected leaks. 72 If converted to carry dilbit, the holes and cracks would leak deadly hydrogen sulphide and unseen soluble toxins like benzene, in addition to quantities of bitumen. Contaminated surface water in the area of the aqueduct could enter Winnipeg’s water supply, and an explosion or fire in the dilbit line would release deadly toxic fumes into the air.

72 LeNeveu.
THE WINNIPEG AQUEDUCT

The Energy East pipeline would be a conversion of one of at least three natural gas lines that run parallel to the Winnipeg aqueduct. For a stretch of about 100 kilometres, the dilbit line and the aqueduct would be running through the same boggy land, in the same watershed, and sharing the same groundwater, surface water, and subsurface water. Their relative positions in this mainly swampy area are such that the flow of groundwater, surface, and subsurface water is always from the pipeline and towards the cracked and porous aqueduct. Where the pipeline is south of the aqueduct, the water drains north; where it is north of the aqueduct, the water drains south. The drainage invariably crosses the aqueduct.

Much of the time, the pipeline is at the extreme edge of the bog, at the southern source of the groundwater flow towards Hazel Creek and the Whitemouth River in the north, and the northern source of flow to the Boggy River in the south. A leak would contaminate the greatest possible area, carried in the groundwater as it moves through the entire bog and across the aqueduct on its way to its destination. The solids in the dilbit would sink and bind with the solids in the bog, just as they did in the Kalamazoo River bed. The soluble toxins like carcinogenic benzene would flow with the groundwater and pass over the aqueduct. Wherever the concrete aqueduct is below the water table, dissolved toxins can enter the aqueduct through cracks and pores.

Benzene is considered to be unsafe at anything more than five parts per billion. The Deacon Reservoir would be contaminated, and unsafe to provide drinking water for Winnipeg, if only 44 litres of benzene entered the 8.8 billion litre reservoir. That amount of benzene is found in 102 barrels of dilbit. As noted earlier, spills of up to 2.63 million litres per day,

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73 Committee on the Effects of Diluted Bitumen on the Environment; Board on Chemical Sciences and Technology; Division on Earth and Life Studies; National Academies of Sciences, Engineering, and Medicine, “Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response,” 2015

or 16,542 barrels, are undetectable. A small, continuous leak could pour more than 16,000 barrels of dilbit into the boggy aqueduct area every day without anyone knowing about it.

Even if only a small portion of the benzene enters the aqueduct, it’s still more than enough to contaminate it. But that’s not the only problem. Small leaks can go on for days, weeks or months, spreading toxins throughout the boggy area around the aqueduct. Insidious and invisible, a leak could poison a swathe of bog several kilometres wide, while the aqueduct continues to carry Shoal Lake water to Winnipeg right through the contaminated bog.

What kind of detection system could be installed to effectively monitor benzene levels in the aqueduct, and what could possibly be done to mitigate the damage after benzene is detected? When would the decision be made to shut down the aqueduct?

How do you ever clean up the bog so that it’s again safe to open the aqueduct?

There is no way to guarantee the safety of the water supply for Winnipeg (or for the many communities along the pipeline); and there is no way to adequately prepare for cleanup and rehabilitation in the event of a catastrophic spill or long term leaks in the area of the aqueduct. If this pipeline proposal were a new oil pipe construction rather than a gas line conversion, the present route through drinking water supplies and along 100 kilometres of the Winnipeg aqueduct would not be considered, and probably not even proposed.

The aqueduct is in the best possible place for its purpose; the gas line proposed by TransCanada for conversion to dilbit could not be in a worse place. To focus on the crossing point to the exclusion of all else would be dangerous and politically foolhardy. There is another 100-plus kilometres of the aqueduct at risk, and ignoring the obligation to properly protect Winnipeg’s water supply would surely open the City to legal action.

Manitoba and Winnipeg are obligated to protect the drinking water of the capital city and its hundreds of thousands of citizens. Both governments should require a re-route of the pipeline, away from Winnipeg’s water supply, and planned with full public consultation and regard for Treaty rights of Indigenous communities. Regardless of the route, as a condition of granting a license for the pipeline, the province and city should require a spill bond that would completely cover the cleanup and recovery costs otherwise borne by citizens, insurance companies and government.
OTHER PROVINCES AND MUNICIPALITIES

Because interprovincial pipelines fall entirely under federal law, municipal and provincial governments do not have the decision making powers they have over intraprovincial projects. However, there are still many avenues the provincial and municipal governments could choose for protecting water, the environment, and the health and safety of citizens; and in Manitoba, there is a mandate for doing so.

According to an April 2015 Climate Action Network poll, Manitoba has the highest rate of opposition to the pipeline. 60% of Manitobans oppose the pipeline and 70% believe that exporting tar sands oil is “unethical because it is harmful to the environment.” Nearly 80% believe that it’s more important to protect the climate than it is to build the pipeline and further develop the tar sands.

Dozens of municipalities have passed resolutions or made statements opposing Energy East. Many others, tentative in their response to Trans Canada, have asked for missing information on specifics of the planned route, pumping stations, safety and emergency plans, environmental protection and climate impact before signalling support for the project. Still others, who are inclined to support Energy East, are nevertheless deeply concerned about climate impact, safety and the economics of the pipeline and are insisting that certain conditions are met.

These are not isolated incidents resulting only from an individual community’s sense of dissatisfaction with the NEB process. Rather, these communities are part of the growing international recognition that our water is precious, climate change is real, and we must take action now.

In the absence of acceptable and responsible federal oversight of pipelines, the provinces of British Columbia, Ontario, and Quebec, and hundreds of municipalities, including Burnaby, B.C., Cacouna, Quebec, Laval, Quebec, and the Communauté métropolitaine de Montréal (CMM) in Quebec, have chosen to use the pathways available to them to protect their citizens and the environment.

BRITISH COLUMBIA

Back in 2012, the province of B.C. made headlines when Premier Christy Clark announced five “requirements that must be established” before the province would consider support for the Northern Gateway, or any other heavy oil pipeline. The five requirements included world-

77 Ibid
leading land and marine spill response and recovery systems, approval by the NEB, economic benefit for B.C. reflecting the “level, degree and nature of the risk,” and compliance with Aboriginal and treaty rights law.

However, there were immediate concerns over the effectiveness of the province’s opposition, because in 2010, B.C. signed an Equivalency Agreement that promised acceptance of the NEB’s decision without an independent provincial environmental assessment. According to economist and former ICBC president Robyn Allen, decisions about the environmental assessment should be the province’s “sovereign right,” and not “handed over” to the NEB.

B.C. maintained its opposition to the pipeline, saying in its submission to the NEB that it could “not support the approval of, or a positive recommendation from the JRP [Joint Review Panel] regarding, this project.” The eventual NEB approval included 209 conditions, and precipitated numerous court cases.

In January 2016, the B.C. Supreme Court ruled in a lawsuit brought against the B.C. government by the Coastal First Nations. The lawsuit sought to show that the Equivalency Agreement put the province in a position of abdicating its duty to conduct its own Environmental Assessment that would include consultation with First Nations. The court found that “the B.C. government breached its duty to consult the Gitga’at and neighbouring First Nations on the Enbridge Northern Gateway pipeline.”

The actions of grassroots organizers, vigorous opposition from First Nations communities, a municipal plebiscite in Kitimat, and the Province of British Columbia’s five conditions combined to force continual delays for the Northern Gateway pipeline. The new federal government effectively killed the project after fulfilling an election campaign promise to place a “permanent moratorium on crude oil tankers on B.C.’s north coast.” The B.C. Supreme Court decision in the Coastal First Nations challenge of the Equivalency Agreement places more obstacles in the way of the Northern Gateway, and “could have an impact on future oil pipeline projects,” including Kinder Morgan’s Trans Mountain pipeline and the Energy East pipeline.

"If we can’t prove our safety and environmental protection, the economic benefits won’t matter. In other words, the economic benefits alone are not enough to sustain public support."
Recently, B.C. took another step towards sustainability and away from oil dependence when the province formally rejected the Kinder Morgan expansion of the Trans Mountain pipeline. The opposition is based on Kinder Morgan’s failure “to meet the province’s safety conditions” by providing an “adequate plan to prevent or respond to an oil spill” in the ocean. 86, 87

The Government of Manitoba has also signed an Equivalency Agreement with the federal government, and will need to carefully consider whether adherence to that agreement will put them in a position of failing to meet their obligations to Manitobans.

**MUNICIPAL RESPONSE IN BRITISH COLUMBIA**

The municipalities of Vancouver and Burnaby have been outspoken in opposing the Trans Mountain pipeline, following upon citizens’ representations of the potential harm. Metro Vancouver responded to citizens’ concerns about Trans Mountain pipeline by commissioning reports on the project’s “economic viability, risk assessment and potential spill impacts.” 88 The results concluded that the risk to health and the threat to Vancouver’s efforts to become a green, sustainable community would far outweigh any benefits. A leak could expose residents and visitors to toxic benzene, with its effects of “headaches, dizziness, nausea, respiratory problems, coma and even death.” 89 Not only people would suffer; the fumes could “kill up to 100,000 birds.” 90 Vancouver, home of Canada’s green movement, has remained steadfast in its resistance and has formally opposed the pipeline. 91

The actions of the City of Burnaby, working in solidarity with citizens and First Nations communities to protect Burnaby Mountain, contributed greatly to delaying environmentally damaging testing activities on the part of Kinder Morgan. Burnaby Mountain is an inspiring example of a municipal government doing its job as the people’s representative, and working together to amplify the grassroots voices. 92

Both municipalities took actions outside the NEB process, after experiencing frustration at the lack of response to questions sent (according to NEB regulations) by letter. With nearly half of those questions left unanswered, and no opportunity to cross-examine, the municipal governments found other ways to make their concerns heard. 93

89 Ibid
90 Ibid
93 CBC News, “Trans Mountain pipeline battle...”
QUEBEC

The people of Quebec are “much more aware of the climate issue” than used to be the case, and are strongly opposed to the Energy East pipeline project. 94 Premier Philippe Couillard said that the project offers “little economic value” to offset the safety and environmental risks. 96 Unlike Manitoba, the Quebec portion of the pipeline would be new construction, but the promise of thousands of short term jobs is not enough to convince Quebecers that the risk is worth it.

“To say here that it’s received positively in Quebec would be a long, long stretch.” 97 In 2014, Environment Minister David Heurtel wrote a letter to TransCanada setting seven conditions that must be met before the project would be approved in Quebec. The conditions, which were also adopted by the Ontario government, include a requirement for the pipeline to adhere to the highest technical standards to ensure public safety and environmental protection. There must be “world-leading contingency planning and emergency response programs,” and TransCanada must have the social license to pursue the project. 98 More than 150 Quebec municipalities have supported the provincial opposition with their own separate resolutions to oppose the pipeline, or with calls for a public hearing and environmental assessment (BAPE) carried out by the province. 99

Initially, the list included a requirement to take into account global emissions associated with the pipeline, backed up by a resolution passed by the National Assembly to consider “the ‘global contribution’ of Energy East to climate change.” 100 After a visit from former Alberta premier Jim Prentice, the Ontario and Quebec leaders said that they would look only at direct emissions from work on the pipeline in-province, and would not consider upstream emissions. This move compromises Premier Couillard’s and Premier Wynne’s commitment to develop green energy solutions. Both provinces had previously implemented a price on carbon, and are currently falling short on targets, which were intended “to fight climate change -- one of the greatest challenges mankind has faced,” and “to protect the air we breathe, the water we drink and the health of our children and grandchildren.” 101 Removing climate impact from the list of conditions will not fight climate change or protect the air and water.

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96 Ibid
97 Ibid
Good environmental policy is good economic policy. Reducing our use of fossil fuels, such as coal, oil and gas, will create jobs now and form a central pillar of our prosperity in the coming years.\textsuperscript{102}

Les conditions du gouvernement du Québec :
- Les communautés locales devront être consultées afin d'assurer l'acceptabilité sociale du projet;
- S'assujettir à une évaluation environnementale sur l'ensemble de la portion québécoise du projet, comprenant une évaluation des émissions de gaz à effet de serre;
- Le projet d'oléoduc devra respecter les plus hauts standards techniques pour assurer la sécurité des citoyens et la protection de l'environnement et seront, en ce sens, suivis par une unité de vigilance permanente;
- Le projet doit satisfaire à la loi en ce qui a trait aux Premières Nations, à leur participation et à leur consultation, le cas échéant;
- Le projet devra générer des retombées économiques et fiscales pour tout le Québec, notamment en matière de création d'emplois dans les régions où il sera installé;
- TransCanada devra garantir un plan d'intervention et de mesures d'urgence selon les standards les plus élevés et assumer son entière responsabilité au niveau économique et environnemental en cas de fuite ou de déversement terrestre et maritime incluant un fonds d'indemnisation et une garantie financière prouvant sa capacité à agir en cas d'accident;
- Les approvisionnements en gaz naturel pour le Québec sont un enjeu qui devra être sécurisé avant d'approuver tout projet d'oléoduc.\textsuperscript{103}

Although the two provinces pulled back from the global emissions requirement, Quebec is maintaining its strong opposition to Energy East and has opened a provincial environmental assessment under the Bureau d'audiences publiques sur l'environnement (BAPE).


MUNICIPAL RESPONSE IN QUEBEC

The Port of Cacouna is an instance of the incredible effect of grassroots opposition when it is supported by governments willing to stand with citizens. The "fierce" resistance to developing a deep water tanker terminal in Cacouna, Quebec was characterized by citizens’ actions, marches, legal challenges, and landowners’ statements of opposition. As the movement grew, so did awareness and involvement on the part of municipalities in the area, leading to official rejection of the project by civic governments. Premier Philippe Couillard came out publicly against the project, and eventually TransCanada dropped plans for a terminal anywhere along the St Lawrence.

In September 2015, Laval (Quebec’s third largest city) passed a resolution opposing Energy East. Mayor Marc Demers said that Energy East would cause an "unreasonable safety risk" to the city’s drinking water, agricultural land, and residential neighbourhoods. Citing the hundreds of serious problems produced by existing oil pipelines, Demers said that the city’s first concern must be the security of its citizens and the protection of the environment, in particular the risk to waterways.

City Council identified several concerns, including the high risk of a leak or spill that could contaminate the community’s drinking water; and the questionable capacity of TransCanada to respond quickly and effectively to a spill.

A spill on the Ottawa River would contaminate Laval’s water supply within eight to twelve hours, and could leave the community stranded indefinitely if contaminated water entered the city’s water treatment system. This scenario would be “very possible” if the much-touted but unreliable automatic sensors failed and a leak went undetected. A similar situation could occur in Manitoba anywhere along the 100 kilometres where the pipeline runs parallel to the Winnipeg aqueduct.

Laval city council is deeply concerned about the health and safety of its people and the environment, but their opposition to the pipeline is founded on the recognition of climate change as the real threat to the health and safety of the world beyond their own community. Recognizing that a renewable energy strategy must be applied to all aspects of business, development, and governance, Laval noted that the expected yearly upstream emissions from Energy East oil (30-32 million tonnes/year) would be 15 times that of the entire City of Laval. They are committed to reducing GHG emissions, developing renewables, and transitioning

108 Rukavina.
away from fossil fuels; and will not compromise that position by allowing a carbon polluter on the scale of the pipeline to pass through their city.  

The council is calling for other municipalities to mobilize in opposition to the pipeline and to pass similar resolutions. They have also undertaken an awareness campaign to inform citizens about Energy East, and Demers said publicly that city council is responsible for the safety of citizens, and will not permit citizens’ health or lives to be put at risk by the pipeline.

Laval, as part of the CMM, participated in the “extensive public consultations” carried out by the 82 Montreal area communities. As a result of the consultations, the City of Montreal announced its opposition to Energy East in January 2016.

**ONTARIO**

The OEB report on the Energy East pipeline concludes that the minimal economic benefit of the pipeline isn’t worth the environmental risk. After conducting public consultations where they heard from 10,000 people and commissioned several reports, the OEB found that Ontarians were deeply concerned about the risk of an oil spill where the pipeline crosses waterways; and about the effects of Energy East’s upstream and downstream GHG emissions.

Addressing the concerns about water contamination and pipeline safety, the report recommends requiring a rerouting of the proposed pipeline to avoid environmentally sensitive areas. It also questions how a route chosen for a natural gas pipeline is appropriate for transporting crude oil, and recommends a full review of TransCanada’s safety record.

In response to Ontarians’ concerns about the exclusion of climate change from the environmental review, the OEB commissioned Navius Research Inc. to examine the upstream and downstream effects of emissions. The report is one of only two in-depth studies of pipeline GHG emissions, and the two reports found very different results.

While the Pembina Institute’s *Climate Implications of the Proposed Energy East Pipeline* found that the pipeline could increase national greenhouse gas emissions by 32 million tonnes per year, the Navius report concluded the pipeline would have only “modest” impacts on GHG emissions. The difference is that Navius worked on the assumption that oil prices would remain high enough to make it consistently economically viable for producers to use the more

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109 Ville de Laval.
111 Ville de Laval
113 Ibid
expensive rail option if the pipeline is not completed. The Pembina analysis argued that limiting increased transport to oil-by-rail would make tar sands expansion uneconomical. Without the pipeline, producers could not afford to ship more oil, and would not be interested in building new or expanded tar sands facilities. The current trend of low oil prices only enforces this position.  

Ontario has not stood out the way Quebec has as a powerful opponent of Energy East; however the province is still seen as “another matter” along with Quebec when compared to the support demonstrated by New Brunswick and Alberta.

Ahead of COP21, Environment Minister Glen Murray acknowledged that much of the world’s proven reserves of oil must stay in the ground. He described the debate as “reframed into debating whether we actually need to move this [oil] anymore,” and spoke of the need for addressing safety and environmental issues in place of profits.

Ontario’s initial resistance to the pipeline lessened after the CMM’s strong statement of opposition to Energy East precipitated a visit from the new Alberta premiere, Rachel Notley, to Ontario’s Premier Wynne in January 2016. With Premier Wynne under pressure from Quebec and from civil society groups to reject the pipeline, Notley used Alberta’s recently announced, somewhat deceptive, climate strategy to gain traction for Energy East.

Whether or not Ontario returns to strong opposition to the pipeline, the struggle to win over the province has added to delays for Energy East, and has helped to sustain a lively public conversation. Although interprovincial pipelines fall under federal jurisdiction, “environmental assessment legislation is an example of valid provincial legislation that could affect an interprovincial pipeline.” Manitoba, as well as Ontario, could choose to implement a provincial environmental assessment of the pipeline, and could consider new legislation. Although any new legislation may be considered by the courts as an “unacceptable interference,” and therefore invalid, the “law is only one means of influencing outcomes.” Public opposition is a powerful tool, and the process of creating and publicly defending proposed legislation (whether successful or not) helps to sharpen that tool.

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118 Ibid.
119 Although initially greeted by environmental groups as a step in the right direction, it quickly became clear that the climate plan would allow for tar sands expansion that would “take up 84 per cent of Canada’s total emissions in 2050.”
121 Ibid.
MUNICIPAL RESPONSE IN ONTARIO

North Bay, Ontario is deeply concerned about the risk to drinking water posed by the Energy East pipeline. The pipeline runs adjacent to Trout Lake (the source of the city’s drinking water) and crosses multiple waterways that drain into the lake. Mayor Al McDonald told the *Toronto Star* that although they have no position “one way or another” on the pipeline, they are “focused on the safety and protection of that drinking water.”  

The community agrees with the OEB report’s recommendation that the pipeline should be rerouted to protect “environmentally sensitive areas.” Trout Lake is North Bay’s only source of drinking water, and the pipeline would be located just north of the lake, crossing many feeder streams and waterways. North Bay city council has applied to the NEB for intervenor status so that they can “be at the table to express” the community’s concerns.

There is no Plan B. We have no other source of drinking water or water for fire protection. Should contaminants hit the lake, our engineers have told us we would need to shut down our water treatment plant … once that happens, in the summer time we would probably have enough water for 24 hours, in the winter months about three or four days worth in our water towers or standpipes.”

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123 Ibid.
124 Ibid.
REVISITING THE NEB PROBLEM

Unfortunately, there is emerging consensus that the NEB has failed to safeguard the public interest with regard to new pipeline proposals. Projects associated with the transport of heavy oil from unconventional sources such as the oil sands have been a trigger point for controversy relating to climate change, water safety, and the fairness of decision making.

First Nations, environmental groups and civil society organizations have suggested the process under the NEB act is illegitimate and biased in favour of industry (the legitimacy crisis). Mainstream media outlets have reiterated this concern:

“The former federal government delegated its duty to consult to the NEB. Since then, the energy regulator has tilted the playing field profoundly in favour of resource companies. The current NEB process appears to be unfairly tilted in favour of the applicants.” 125

In the views of many Canadian citizens, fairness, inclusion and rigour have been sacrificed at the altar of industry expediency. Among the more notable failings of the federal review of pipeline applications are:

- the exclusion of the consideration of downstream effects related to climate change from the environmental analysis
- a failure to engage in meaningful consultation outside the NEB process
- a failure to engage in meaningful consultation within the NEB process
- the failure to require the applicant to present its application in oral evidence
- the denial of the right of cross examination
- the denial of the right for intervenors to call Western scientific oral evidence
- an impoverished view of oral, traditional evidence and unjustifiable limits on the ambit of that evidence 126

In the face of a pre-eminent Federal regulatory role, pipeline projects present a challenge to provinces such as Manitoba given public concerns and community pressures relating to the:

- end use climate change implications of these projects
- pressure placed on provincial infrastructure by new pipeline projects including interconnection and supply from the Manitoba Hydro grid, and
- security and adequacy of the existing water supply


126 For a useful summary of many of the substantive concerns with the NEB process, please see the closing submissions of the Assembly of Manitoba Chiefs in the Enbridge Line Proceeding before the NEB on December 11, 2015, At the Crossroads: Reconciliation, Renewing Relationships and The Great Binding Law. Another useful summary is West Coast environmental law Legal Backgrounder: What are the Northern Gateway Court Challenges About, July 2015.
As just one example of the magnitude of public concern, the International Rainy Lake of the Woods Watershed Board has specifically flagged issues relating to the public transport of petroleum as worthy of further consideration and research for this large freshwater basin that lies on Manitoba’s southeastern boundary.

Transport of Petroleum - Substantial amounts of petroleum and other hazardous chemicals are transported through the Basin via rail and pipeline. In recent years, rapid expansion of petroleum extraction from Alberta, Canada and the Bakken formation in North Dakota has resulted in increased rail shipments through the Basin. In addition to rail transport, there are proposals to increase pipeline capacity to transport petroleum through the Basin. Both rail and pipeline transport are subject to large releases of chemicals in the event of derailment or pipeline failures. In recent years, a number of such derailments and pipeline failures have resulted in large releases of petroleum in several locations in Canada and the U.S. Basin. Residents are concerned that such disasters near waterways in the Lake of the Woods Basin would damage ecosystem services, including contamination of drinking water supplies with toxic chemicals.\(^{127}\) (Emphasis added.)

In terms of the Province of Manitoba, Dr. John Stansbury has highlighted concerns relating both to drinking water quality and to damage to surface water:

\[T\]here may be significant impacts to the operation of the [City of Winnipeg] aqueduct (e.g., increased monitoring and removal of oil constituents to make the water palatable), and these impacts would last for a very long time if a spill were to occur near the aqueduct.\(^{128}\)

The volumes of dilbit that could be released from a major leak or rupture could cause very significant negative impacts to streams and their aquatic environments. As has been shown from other dilbit pipeline ruptures, cleanup of spills to surface water is exceedingly difficult, time-consuming, and expensive. I think that these impacts are the most significant threat from the proposed pipeline.\(^{129}\)

While the new Federal government has given a mandate to the Minister of Natural Resources and the Minister of the Environment to restore legitimacy to environmental decision making, it is unclear how ongoing reviews will be affected. The recent announcement by the federal government that there will now be a climate test for pipeline projects (including those currently under review) was a step in the right direction.


\(^{129}\) Ibid
In another interesting development, the NEB found that TransCanada’s Energy East application was too complicated for even experts to understand.\textsuperscript{130} They requested a new table of contents, followed by a completely reworked application that is readable and clear “in a way that’s easier to navigate.”\textsuperscript{131} The future is now less bleak; however, the commitments made do not go far enough. Given the NEB legitimacy crisis and ongoing community and scientific concern, the dilemma for the Province of Manitoba and for rural and urban municipalities is whether to place their trust in the uncertain hands of the NEB or to seek out alternative approaches. The federal process is not intended to reach “no” on pipeline approvals, and immediate profits take precedence over long-term climate related losses. Manitoba and Winnipeg must take whatever actions are necessary to ensure the well-being of citizens, the water, and the environment.


REACHING A PLACE OF CLIMATE HEALTH AND SAFETY

“The best way to cut excessive carbon emissions is by phasing out Canada’s carbon-fuel exporting role. Canadians can determine how much carbon energy we burn, but not how much others do.”

The Energy East pipeline is an export pipeline that will send Canada’s tar sands bitumen to be refined and burned where Canada has no control over its contribution to climate change. Within Canada, there is no room, and no need, for increased carrying capacity of tar sands oil. If we phase out our exporting role, we can also stop building more pipelines, and instead turn our attention (and dollars) to creating a clean, just, sustainable energy system.

The broken NEB process must not be allowed to lead to a broken planet. Each new pipeline adds to the unsustainable burden on the climate, as fossil fuel reserves are developed far past the point of limiting warming to the 1.5 degree IPCC target. If the federal system can't protect our precious water and our children’s future, it remains for subnational governments to fulfill their obligations to citizens and the environment. Governments may need to consider innovative ideas, and atypical actions, if we are to reach a place of climate health and safety.

However we choose to measure, price, and talk about carbon, the reality is that each contributor to fossil fuel emissions must curtail emissions under the constraint of the global carbon budget. 80% of the tar sands reserves must stay in the ground and the Energy East pipeline must not be built.

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RECOMMENDATIONS

- Request the PUB to open an investigation into the safety of the Winnipeg aqueduct in the event of a spill or undetected slow leaks from the pipeline.
- Require a re-route of the pipeline, away from: the Winnipeg aqueduct, natural gas lines, drinking water supplies, and conservation areas such as the Whiteshell Provincial Park.
- Carry out public education through the media of hearings (during the CEC and PUB assessments), open houses, pamphlets and flyers at political offices, and press statements.
- Require third-party studies to study how dilbit would react in the aqueduct.
- Request the Clean Environment Commission under its own authority to initiate an investigation into the implications of Energy East.
- Request the Director of the Office of Drinking Water to seek an assessment by the City of Winnipeg for implications from the Energy East project relating to protecting the water system from contamination and preparing emergency response.
- Follow British Columbia’s lead in refusing support for the Kinder Morgan TransMountain expansion by making a public statement of rejection concerning the Energy East pipeline.
- Set conditions on the pipeline at least as stringent as those set by Quebec.
- Require development of spill remediation techniques for the aqueduct specific to dilbit, as outlined in the recent National Academy of Science dilbit study.
- Require a corporate guarantee from TransCanada that would cover all costs of complete spill remediation in the event that Energy East or TransCanada are no longer profitable, or have declared bankruptcy.
- Require a reserve fund from TransCanada for clean-up, rehabilitation, and restoration costs; the fund to be managed independently of the oil company.
- Require a sustainable development fund from TransCanada to offset upstream and downstream GHGs of the pipeline.
- Require TransCanada to pay for necessary additional training and equipment for first responders.
- Require a comprehensive risk assessment for fire departments in affected communities, in particular Cromer, MB.
- Require compliance with provincial and municipal plans.
- Require joint emergency response plans between TransCanada and province.
- Require TransCanada to prepare a complete strategic response plan for the aqueduct, Shoal Lake watershed, aquifers and rivers, main watercourses and environmentally sensitive areas, and to distribute and present the plan to all stakeholders without confidentiality agreement.
- Pass legislation requiring Hydro to charge higher rates for supplying power to fossil fuel industries.
- Put into place a complete Manitoba emissions inventory and full-cost accounting in terms of Energy East climate change implications.
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