

Federal pipeline regulators push on Enbridge's Line 9 | Toronto Star, Thursday, March 5, 2015

Federal pipeline regulators are pushing back after Enbridge asked some municipalities along its Line 9 route, which cuts across the GTA, to sign non-disclosure agreements prior to receiving complete copies of emergency plans.

In a February 2015 letter to the pipeline company, National Energy Board chair and CEO Peter Watson wrote that officials representing Quebec municipalities had informed him of the company's request for confidentiality agreements.

"Both officials expressed concerns about signing the (non-disclosure agreement), and questioned how they could justify doing so to their citizens, who are expecting transparency," wrote Watson.

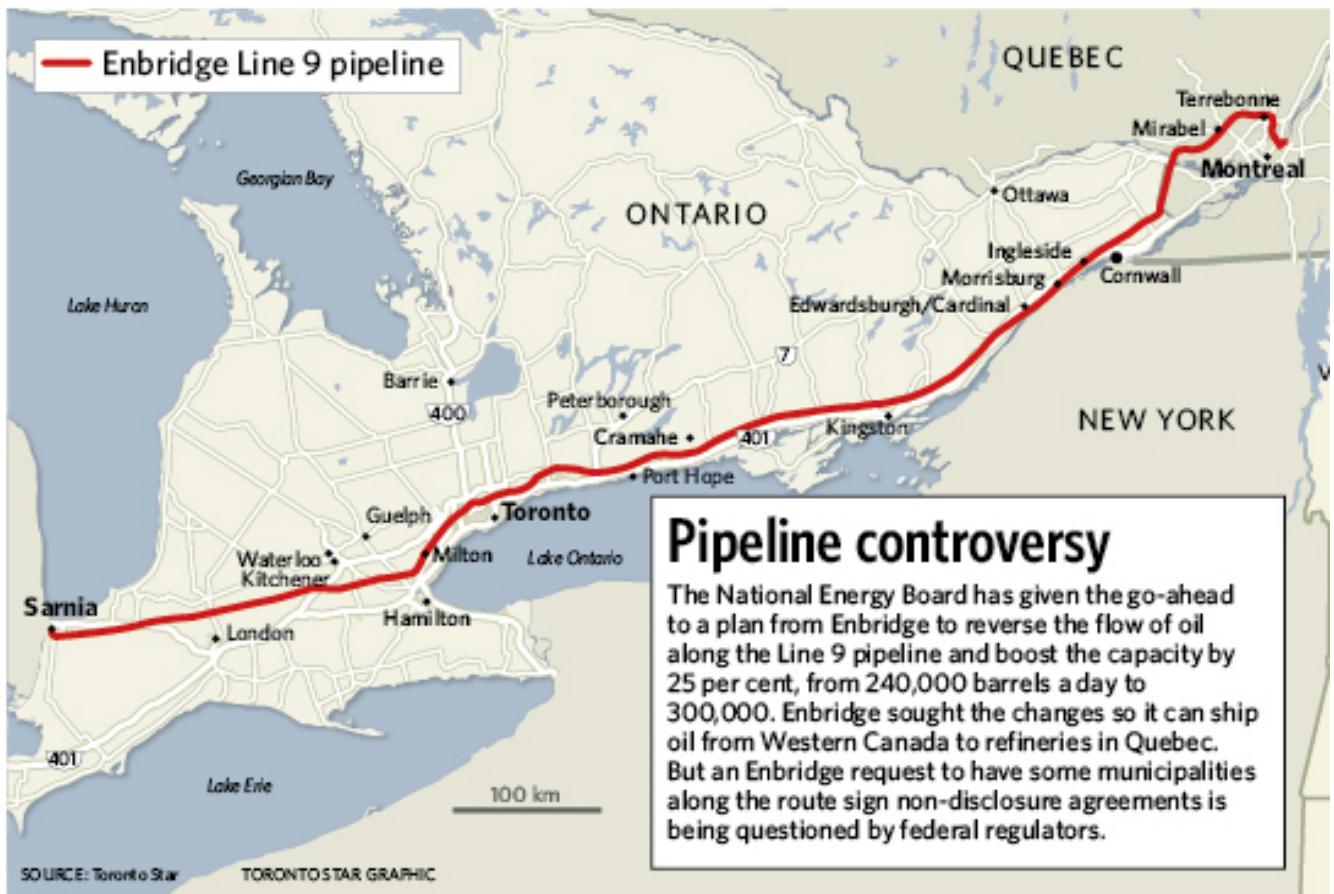
"I am concerned that Enbridge's practice of requesting NDAs is not consistent with the principle of regulatory transparency that guides the board's approach." Enbridge spokesperson Graham White said it's standard procedure for municipalities to sign confidentiality agreements when receiving documents that contain "sensitive information."

This information could include locations of endangered species' habitats and drinking water intakes, personal information about first responders, and third-party proprietary information.

"They are in fact necessary for safety, environmental and security reasons," said White.

Public scrutiny of the pipeline industry and its regulator has mounted in recent years, as a host of major pipeline projects coupled with several high-profile spills have stoked safety fears.

Last March, the NEB, which regulates interprovincial pipelines across the country, approved Enbridge plans to reverse flow and expand capacity on its 40-year-old Line 9. The pipeline, which flows from Sarnia to Montreal, is set to begin operating in June.



The green light came after months of public hearings that heard from a parade of concerned citizens, municipalities and environmental groups. Toronto and other GTA-area municipalities raised myriad concerns about emergency planning and a lack of information from the company.

The NEB's approval was contingent on Enbridge meeting 30 conditions prior to opening, including a requirement to file an emergency response plan with the regulator.

Emergency plans for Line 9 have been posted on the board's website, though swaths of pages in some sections are heavily censored.

It's the information under those blacked-out sections that must be covered in confidentiality agreements before non-censored copies are provided to municipalities, though the company does share the full information with some parties without non-disclosure agreements.

Federal pipeline regulations require companies "to inform all persons who may be associated with an emergency response" of procedures. But who constitutes "persons who may be associated" isn't entirely clear.

Enbridge presents information about emergency plans to all municipalities, only requiring confidentiality agreements when local officials want their own written copies. Enbridge provides the plans to regional first responders and “all persons who may be associated with an emergency response activity” without requiring a confidentiality agreement, White said.

When asked to clarify whether that would include people living in the area, business owners or other members of the public, White said, “It would if they had a role in the response or had to know for safety reasons.”

But he said every incident is different and so could not speculate on who would fall into that category.

Residents living near pipelines receive information about lines’ locations, the products they carry, emergency contacts and leak recognition and response; in the event of an emergency, municipal officials that have full access to emergency plans would direct the public on what to do, said White.

NEB spokesperson Darin Barter told the Star that, in the board’s view, those who should be informed includes “people who live and work in a predetermined vicinity of the pipeline who may be directly impacted should an incident occur.” “There is a public will for the information and we agree that citizens who may be impacted as a result of a pipeline incident should have the information,” said Barter.

NEB Chair Watson wrote in his letter that if the company believes “there is significant confidential and proprietary information that in your view must not be released ... then Enbridge can seek a review of the information by the (NEB) and we will decide what should be released.”

Toronto spokesperson Wynna Brown said the city has signed non-disclosure agreements in order to obtain copies of tactical plans for water crossings. The plans contained “detailed access information that could create a security threat if publicly available as it could be used to frustrate emergency response steps,” said Brown.

“City staff are satisfied that the process has provided a reasonable opportunity for input and liaison in the event of an emergency,” she said.

Representatives from Mississauga, Pickering and Whitby said their municipalities have received emergency plans without being asked to sign non-disclosure agreements.

“The public has an absolute right to know everything about what the risks are,” said Adam Scott, the climate and energy program manager with Environmental Defence. “I’m glad to see that the NEB’s poking but I’m not convinced that they’re

going to bring it to the resolution that we'd want to see ... We haven't seen the NEB force transparency yet."

Krystyn Tully, co-founder and vice president of Lake Ontario Waterkeeper, said the environmental organization supports an "open by default" approach.

"We are happy to see that the NEB agrees with that perspective in its letter to Enbridge," said Tully.

The Canadian Energy Pipeline Association said it acknowledges the importance of making emergency response plans available to the public.

But those plans, according to an emailed statement attributed to CEPA's vice president of external relations Philippe Reicher, also contain information that "could infringe upon individual privacy, national security, third party confidentiality and environmentally sensitive information."

The organization, which was copied on the NEB letter to Enbridge, said it is looking into the matter.

Enbridge said the issues with concerned municipalities have been resolved. The company is expected to respond to the NEB early this month.