

**NATIONAL ENERGY BOARD  
OFFICE NATIONAL DE L'ÉNERGIE**



**Hearing Order OH-002-2013  
Ordonnance d'audience OH-002-2013**

**Enbridge Pipelines Inc.  
Line 9B Reversal and Line 9 Capacity Expansion Project  
Application under s.58 of the *National Energy Board Act***

**Pipelines Enbridge Inc.  
Projet d'inversion de la canalisation 9B et  
d'accroissement de la capacité de la canalisation 9  
Demande présentée aux termes de l'article 58 de  
la *Loi sur l'Office national de l'énergie***

**VOLUME 6**

**Hearing held at  
L'audience tenue à**

**Metro Toronto Convention Centre  
South Building  
222 Bremner Boulevard  
Toronto, Ontario**

**October 17, 2013  
Le 17 octobre 2013**

**International Reporting Inc.  
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Imprimé au Canada

HEARING ORDER/ORDONNANCE D'AUDIENCE  
OH-002-2013

IN THE MATTER OF Enbridge Pipelines Inc.  
Line 9B Reversal and Line 9 Capacity Expansion Project  
Application under s.58 of the *National Energy Board Act*

**HEARING LOCATION/LIEU DE L'AUDIENCE**

Hearing held in Toronto (Ontario), Thursday, October 17, 2013  
Audience tenue à Toronto (Ontario), jeudi, le 17 octobre 2013

**BOARD PANEL/COMITÉ D'AUDIENCE DE L'OFFICE**

L. Mercier	Chairperson/Présidente
M. Richmond	Member/Membre
J. Gauthier	Member/Membre

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(i)

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- Mr. Douglas E. Crowther  
- Ms. Margery Fowke  
- Ms. Kristi Millar

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#### First Nations/Premières Nations

- Aamjiwnaang First Nation  
- Mr. Scott A. Smith  
- Mr. Paul Seaman

- Chippewas of the Thames First Nation  
- Mr. Scott A. Smith  
- Mr. Paul Seaman

- Mohawk Council of Kahnawà:ke  
- Chief Clinton Phillips  
- Mr. Francis Walsh  
- Mr. Patrick Ragaz

#### Groups/Groupes

- Algonquin to Adirondacks Collaborative  
- Ms. Emily Conger  
- Mr. Rob McRae

- Association Industrielle de l'Est de Montréal  
- M. Dimitri Tsingakis  
- M. André Brunelle

- Canadian Association of Petroleum Producers  
- Me Guy Sarault  
- Mr. Nick Schultz

- Communications Energy and Paperworkers Union of Canada - Unifor  
- Mr. Steven Shrybman

- Conseil du patronat du Québec  
- Mme Norma Kozhaya  
- M. Yves-Thomas Dorval  
- M. Louis-Paul Lazure

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Council of Canadians - York University Chapter

- Mr. Amit Praharaj

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DurhamCLEAR

- Mr. Doug Anderson

Équiterre (Coalition)

- Mr. Albert Koehl

- M. Sidney Ribaux

Fédération des chambres de commerce du Québec

- M. Jérôme Gaudreault

- M. François-William Simard

Grand River Indigenous Solidarity

- Mr. Dan Kellar

- Ms. Rachel Avery

Great Lakes and St. Lawrence Cities Initiative

- Ms. Nicola Crawhall

- Mr. Philippe Chenard

Manufacturiers et exportateurs du Québec

- M. Simon Prévost

- Mme Audrey Azoulay

Ontario Petroleum Institute

- Mr. Jim McIntosh

- Mr. Hugh Moran

Ontario Pipeline Landowners Association

- Mr. John D. Goudy

Ontario Pipeline Probe

- Mr. Darko Matovic

Rising Tide Toronto

- Ms. Amanda Lickers

Stratégies Énergétiques

- Me Dominique Neuman

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(iii)

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- Mr. Julian Tennent-Riddell

Union des producteurs agricoles

- M. Pierre Lemieux

- Mme Isabelle Bouffard

#### **Companies/Compagnies**

Suncor Energy Marketing Inc.

- Mr. Lawrence E. Smith, Q.C.

- Mr. Jay Headrick

- Mr. John Van Heyst

Valero Energy Inc. (was Ultramar Ltd., Ultramar Ltée)

- Mr. Alan Hollingworth

- Me Julie-Martin Loranger

- Ms. Lisa Jamieson

#### **Governments / Gouvernements**

Alberta Department of Energy

- Mr. Colin King

Ontario Ministry of Energy

- Mr. Rick Jennings

City of Toronto

- Mr. Graham Rempe

Municipalité de Rigaud

- Maire Réal Brazeau

- Mme Chantal Lemieux

Municipalité de Sainte-Justine-de Newton

- Mairesse Patricia Domingos

Municipalité de Très-Saint-Rédempteur

- Maire Jean A. Lalonde

Municipalité régionale du comté de Vaudreuil-Soulanges

- M. Guy-Lin Beaudoin

- Dr Gilles Bolduc

- Mr. Simon Richard

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### INTERVENORS/INTERVENANTS (Continued/Suite)

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Ville de Sainte-Anne-des-Plaines

- M. Guy Charbonneau

- M. Benjamin Plourde

#### **Individuals/Individus**

Ms. Catherine Doucet

Ms. Marilyn Eriksen

Ms. Emily Ferguson

Dr. Nicole Goodman

Ms. Sarah Harmer

Ms. Louisette Lanteigne

M. Jean Léger

Ms. Carrie Lester

Mr. John Quarterly

#### **National Energy Board/Office national de l'énergie**

- Mr. Ryan Rodier

- Mr. Mark Watton

## ERRATA

(i)

### Wednesday, October 9, 2013 - Volume 2

Paragraph No.:

Should read:

1303:

“...a strong prima facia case for...”

“...a strong prima facie case for...”

1331:

“...of subsection 35.1 of the Constitution.”

“...of subsection 35(a) of the Constitution.”

1342:

“...on the way that this evidence should be given.”

“...on the weight that this evidence should be given.”

1355:

“...the difficulty indemnization that happened...”

“...the difficulty of indemnization that happened...”

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## **LIST OF EXHIBITS/LISTE DES PIÈCES**

<b>No.</b>	<b>Description</b>	<b>Paragraph No./No. de paragraphe</b>
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--- Upon commencing at 9:01 a.m./L'audience débute à 9h01

4460.           **THE CHAIRPERSON:** Good morning, everyone.

4461.           I believe that the City of Toronto has something to present to us or tell us from yesterday's ---

4462.           **MR. REMPE:** Yes. Thank you.

4463.           This is a follow-up in relation to the so-called LOPIPE policies which are at the city's evidence which is Exhibit C40-7-2, at paragraph 64.

4464.           And generally these CTC source protection plans are policies that are intended to specifically address current and potential threats, specifically in this case related to petrol pipes. In general they review and recommend necessary improvements we feel should be in place to existing spill prevention management and reduction.

4465.           Our view, as we indicated yesterday, was we felt that these need to be a little more comprehensive. They're not as comprehensive as we believe they need to be.

4466.           So running through the policies that are there and I'll refer to them by numbers. These are the little Roman numbers.

4467.           The first is that plans are based on the depth of groundcover. We do believe that the NEB's Proposed Condition 22D-4 it refers to an inventory of depth of groundcover. So it may well be that those provisions are covered in that proposed condition.

4468.           We would stress that the various plans that we expect to see or that are required to be produced regarding spill response, spill management, risk reduction contingency plans, that kind of thing, should all take into account those ground -- groundcover levels.

4469.           The second item in the LOPIPE policies is spill response timeframes. Enbridge has a targeted response of 1.5 to 4 hours but that has been derived without modelling or any detailed assessment. And we're concerned that it doesn't take into account consideration of the variability in stream flows, lay currents, weather conditions, that kind of thing or the time that may be needed to

- contain a spill of significance.
4470. This may represent the time that a first responder actually arrives at the scene but it may not take into account the issues that they may have actually getting to the site. You know, particularly if these are in steep river valleys, that kind of thing. So we -- again we're -- like to see a little more detail in that area.
4471. The third is the prompt unified regulatory command issue, and again, there have been some provisions in the emergency management plan in the book -- pardon me, in Book 7, the Enbridge Book 7.
4472. We maintain that that is not at the level of detail that may be needed to coordinate response by various emergency teams depending on what is going on.
4473. The fourth is notification protocols and what's referred to there is the spill action centre, which is the provincial body. And we understand that Enbridge will -- has a responsibility and would respond to SAC.
4474. There is no requirement to notify water. We do understand -- Toronto water that is. We do understand that there has been some discussion between Enbridge and Toronto water officials. We don't know what all the details of that discussion are but we would like to see more formal notification provisions, as I mentioned, in relation to the potential need to shut the water down. So we'd like to see that formalized in these plans and policies.
4475. The fifth is reporting thresholds. These are -- the proposed actions and conditions that the Board has suggested very likely deal with this through the leak detection considerations.
4476. The sixth is the communication of information to responsible parties. Again, this is probably a question of detail. We'd like to see more particulars.
4477. The seventh is spill response plans for each crossing. Toronto maintains that site-specific plans are needed for each stream, and I think we covered that in our submission.
4478. And it's further highlighted by the challenges that may be presented in accessing crossings, for example, deep in river valleys, and mobilizing equipment and materials and the steps that need to be taken, and of course the concerns can be compounded if the weather is adverse or high flow conditions exist.

4479. We are, as I mentioned, encouraged by the spill tactical response plan that has been developed for the Don. We do understand that one is promised for the Humber. Part of the difficulty is that we have not seen these plans. We weren't involved in their preparation and we haven't seen them in their final form.
4480. So it's difficult, in a sense, to comment on their adequacy but we do certainly acknowledge that they are out there with some appreciation.
4481. The eighth is the system failure and shutdown measures and policies. And again, we do acknowledge the intelligent valve placement study and the two valves that were referred to in the Don.
4482. We do consider it essential though that these kind of valves be installed at all major watercourses to prevent the significant release of materials. And we would like to see that specifically addressed through the Board's -- through the emergency management plan.
4483. And the ninth is the depth of groundcover. And this has partly been addressed to be sure. Enbridge has indicated that it's undertaking a pipeline depth monitoring program with a 10-year cycle. Frankly, that's longer than we would like to see.
4484. And I'd also refer you, in regard to that condition, to the TRCA's concern about the level of robustness of the geohazard risk assessment and refer you back again to the TRCA conditions on that. But -- and they, again, refer to the potential conditions you've proposed, 17 and 22.
4485. And on that note we also, again, would like to see some consideration of the TRCA's baseline information as recommended in their Recommendation Number 2.
4486. So Number 10 -- and I'm getting to the end here. I apologize for how long this is taking. The assessment of the condition of the pipe; we have noted our requests for additional integrity management conditions, and the fact that these conditions are addressed in the Board's proposed conditions as well, particularly, for example, Condition 9.
4487. Number 11 in the LOPIPE is best management practices, and again,

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- this is -- we view an ongoing requirement that requires and relies on Enbridge to continually assess and reassess what their best management practices are. And we believe that the current conditions with Board's supervision will achieve that.
4488.           And the 12<sup>th</sup> is -- I'm not sure that it's particularly germane because it talks about new construction, to the extent that any new construction is required, we would be looking for a current best design criteria. So this is where we're talking about, not necessarily what will pass the grade but what is the best in the industry at the time.
4489.           And finally, the reference to working with Emergency Management Ontario; the test contingency plans, frankly we're not sure what, if any, involvement there's been with Emergency Ontario, it would be surprising if that wasn't part of Enbridge's responses. And it may be somewhere in the material. We have made submissions though as to the impact and necessity of the exercises.
4490.           So I hope that provides you with a little more -- probably more than you really wanted to hear, but I hope it assists you in what we think those LOPIPE policy should be achieving.
4491.           **MEMBER RICHMOND:** Thank you, sir, that was more detail than I expected, but as a result, more helpful as well. So, thank you.
4492.           **MR. REMPE:** Thank you very much, sir.
4493.           Is that -- does that meet your requirements, Madam Chair?
4494.           **THE CHAIRPERSON:** Yes. Thank you very much.
4495.           **MR. REMPE:** Thank you.
4496.           **THE CHAIRPERSON:** Now we will hear from Dr. Nicole Goodman.
- (A short pause/Courte pause)
- **FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR DR. NICOLE GOODMAN:**
4497.           **DR. GOODMAN:** Good morning, Madam Chair and Members of the

Board.

4498. I would like to begin by thanking the Board for accommodating my work schedule and permitting me to speak this morning. I am grateful for the opportunity to have my voice heard.
4499. I would also like to express thanks to Michael Benson, NEB Process Advisor on this file, who provided me with exceptional assistance throughout the Line 9B hearing process, even answering his cell phone to answer a last minute question. As a first time intervenor, I'm appreciative of his impartial assistance and guidance.
4500. My name is Nicole Goodman and I'm here today to speak to you in two capacities. First, I speak to you as a mother who is concerned for the health and safety of my family and the future of my almost two year old son and, as a resident of Burlington, Ontario, a community through which Line 9B runs. In this capacity, I speak for myself and my family. But also for seven other Burlington residents who are deeply concerned about the proposed project.
4501. Second, I deliver a portion of this presentation as a political scientist who studies political participation and has analysed the public consultation process, both as a participant and through a survey of Burlington residents.
4502. Largely, my research raises concern about the lack of public awareness of this project and public consultation I consider to be woefully inadequate, giving the policy approvals that are at stake in this proposal. Findings also strongly indicate that the proposed changes are not in the public interest of Burlington residents.
4503. I want to frame my comments today by using the public interest as a point of reference. And I would like to ask the Board to do the same, as they hear from fellow intervenors in this process and review letters of comment from other interested parties.
4504. I would also like to state at the outset that I am opposed to the proposed changes, particularly the increase in capacity and the transportation of bitumen or heavy crude.
4505. Given that the Board has already prepared draft conditions however, as outlined in Appendix 2 of Procedural Update Number 4, I have included

recommended conditions considered to be pertinent throughout the presentation, notably with respect to the “Prior to Construction” section.

4506. First then I’d like to speak as a concerned resident living in an affected community. Why is the proposed project of such great concern to me and other residents?

4507. Well, for one, drinking water our family and most Burlington residents consume comes from Lake Ontario. If a leak occurred, any watershed contamination could follow very quickly into Lake Ontario, posing significant concerns for the well-being of our families.

4508. Our concern regarding possible leak and the contamination of water supply is exacerbated knowing that Line 9B has not shutoff valves on the banks of many creeks and rivers, non-navigable waters it crosses and minimal wall thickness of the pipeline and the pounds per square inch it was constructed to safely carry.

4509. Given the fact that the pipeline crosses populated and environmentally sensitive areas and waterways, I ask that a condition be added to install the highest quality shutoff valves as the banks of all creeks, rivers and other waterways, no matter how modest, in environmentally sensitive areas as identified by participants in this process to be proactive about preventing a leak or spill.

4510. Fixing an area of the pipeline after a leak or spill has occurred is a reactive approach that will not remedy any potential water contamination that may have occurred.

4511. I ask the Board to be proactive in this regard, and stipulate this as a requirement, which would also help to bring the pipeline up to current engineering standards with regards to shutoff valves.

4512. Furthermore, many Burlington residents rely on local food, grown in adjacent areas to or in the vicinity of Line 9B to feed their families. The weekly food box my family purchases for example, is part of a local food ---

4513. **THE CHAIRPERSON:** Ms. Goodman, you speak quite fast and ----

4514. **DR. GOODMAN:** Oh, sorry.

4515.           **THE CHAIRPERSON:** --- and translators are doing it in French ---

4516.           **DR. GOODMAN:** Okay.

4517.           **THE CHAIRPERSON:** --- and in French it's 20 percent more words. So if you can just slow down.

4518.           **DR. GOODMAN:** Yes, I'm sorry, okay.

4519.           **THE CHAIRPERSON:** No, it's okay; you're very enthusiastic.

4520.           **DR. GOODMAN:** Okay.

4521.           The weekly food box my family purchases for example, is part of a local food program to support farmers from Hamilton, Waterdown, Milton and surrounding area. Any contamination by leaked or spilled oil or bitumen could permanently damage our local food supply, which is important to our local economy and our health.

4522.           We also use parks and areas nearby for recreation with our loved ones, commute on the roads adjacent to the pipeline on a daily basis as well. In addition, some children attend schools in this area within several kilometres of the pipeline. Any leakage could contaminate this area and pose a severe risk to residents and their children.

4523.           Concerns of a leak or spill and impact to any of these elements that represent our way of life are exacerbated by research that suggest cleaning up thick crude is more challenging and its effect potentially more degrading to the natural environment.

4524.           An additional concern we have echoed in our documentation throughout this process, is the fact that there is quarry blasting within 1 kilometre of the pipeline.

4525.           In response to Nicole Goodman IR Number 1, Enbridge writes:

*“Blasting beyond 40 metres from the edge of the pipeline ROW poses minimal risk to operating pipelines. If blasting occurs closer than 40 metres from the edge of the ROW, a blasting plan must be submitted to the NEB for approval, and regular*

*vibration monitoring of the pipeline is necessary.”*

4526. In Enbridge’s response to Nicole Goodman IR Number 2, the company further states:

*“...that the current regulatory, operational and maintenance measures in place are sufficient to maintain the safety and integrity of the pipeline, and that the additional measures requested are not necessary.”*

4527. I believe that minimal risk is still a risk that should be taken into account. And additional safety measures and protocols should be added, particularly given the age of the pipeline and the outdated engineering standards to which construction was upheld.

4528. I do not believe that these concerns were address through the information request exchange. And I would ask the Board add a condition under the “Prior to Construction” heading, which requires that the entire segment of the affected pipeline, that is near the quarry blasting, be subject to a comprehensive study to address the physical weaknesses and recommend the appropriate solutions, if necessary.

4529. I would further request that the Board require Enbridge to complete work to fulfill any conditions outlined in this study.

4530. In addition, based on evidence provided by other parties and cited in the testimony of DurhamCLEAR yesterday, regarding a lack of environmental assessment to date, I would recommend the Board add a condition under the “Prior to Construction” heading which mandates that a robust environmental assessment of the entire project pipeline be undertaken that takes into account especially new realities, such as increased flux and changes in weather patterns, and that proposed changes or work on the project may only commence once the assessment has been addressed and pending no serious concerns that Enbridge does not have the ability to dress -- address in the short-term.

4531. A final condition which I did not see in the draft, and that I believe should be included under “Prior to Construction” is that emergency response plans be written with all affected communities on an individual basis.

4532. This is especially important given the fact that unique contextual

- considerations in each area, such as population density, community resources, geography, topography and the presence of environmentally sensitive areas differ by community. Therefore, a one-size-fits-all approach to emergency management is not adequate to address the needs and contexts of all communities.
4533. In another 30 to 40 years, the life of the pipeline, I imagine we will look back on this with a wealth of knowledge and technology that will make development safer.
4534. Operating a pipeline constructed based on now outdated standards with a new substance at a higher flow capacity, to me, seems like a disaster waiting to happen for affected communities.
4535. I believe the conditions just outlined should be introduced at a minimum, but that largely, the project should not be approved based on the increased likelihood of risk, outdated construction standards, the fact that the proposed changes are not in the affected public's interest and a lack of public consultation.
4536. Finally, I would like to briefly comment on my participation as a resident.
4537. On Thursday, March 21<sup>st</sup>, 2013, I attended a public presentation that was put on by Enbridge at Conservation Halton. This is the same presentation Emily Ferguson spoke of yesterday in her oral argument, and this is where we met for the first time.
4538. After listening to the presentation, I also approached Enbridge employees. And after seeing them give Emily a hard time, explained that we did not want to cause trouble and we were just concerned citizens who lived in communities through which the Line 9B pipeline passes and wanted information about the project.
4539. I asked for the PowerPoint slides that they had just publicly presented and the map. My request was also refused. Enbridge staff suggested they may be willing to provide a copy of the presentation if I provided them with a copy of my driver's licence for security reasons. I was not prepared to give them a copy. This, after all, was a public presentation. I explained that I could simply contact a councillor on the Conservation Halton Board for a copy of the presentation and they encouraged me to do that.

4540. This was my first experience with Enbridge. And to be honest, I in no way felt they cared about the fact that I wanted to know more about the project. They did not help to facility my informedness as an affected citizen and they did not seem interested in public consultation. I believe Enbridge has a responsibility to put forth its best effort to inform and consult with the public within reason.
4541. This encounter highlighted for me some of the deficiencies in the approach to educate and consult with the public with regards to the proposed project. My personal experience is a helpful segue into key findings from the City of Burlington resident survey and public engagement in this process more generally.
4542. As part of my evidence for these proceedings, I conducted an anonymous survey of Burlington residents in July of 2013 to gauge their informedness of the proposed project and their supportiveness of the three proposed changes requested by Enbridge.
4543. Referring to the IAP2 spectrum of public participation that is included on page 3 of my written evidence submission, you can clearly see the different levels of public impact.
4544. Ideally, meaningful consultation sits in the midpoint or latter half of the diagram. In the case of Enbridge's efforts however, efforts to consult the public, based on my personal experience, information provided in responses to IR requests, and the survey responses suggest that, at best, the informed stage was carried out. And, based on survey evidence as well as testimony by others such as Emily Ferguson, this was done so limitedly.
4545. Why is this a concern? Well, it speaks to a low level of public impact and lack of meaningful engagement of citizens in the process. The evidence suggests that this process and information efforts undertaken previous to its commencement -- sorry -- do not qualify as meaningful public consultation.
4546. If a proposed project is not subject to adequate or meaningful public consultation, then how can an accurate ruling be determined whether the proposed changes are truly in the public interest?
4547. Overall results from the survey communicated the following key points that I believe are relevant to emphasize here today.

4548. One, there is not public support in Burlington for the passage of this project; two, while a majority of respondents opposed all prospective changes, there is stronger opposition voiced with respect to the proposed increase of capacity and the strongest opposition to the transportation of bitumen or dilbit. An overwhelming majority, 99 percent of respondents, expressed concern about the project.
4549. Though there are more survey results that support not moving forward with the project, I believe these particular findings are telling of the fact that in the City of Burlington the proposed project is not considered by residents to be in the public interest.
4550. This brings me to my final point about the public interest and this process more broadly.
4551. How many individual citizens in grassroots citizens groups are here participating in this process because they support Enbridge's project requests regarding Line 9B versus the number of those that oppose the project or have significant concerns and suggestions for conditions?
4552. If you take a moment to look at the list of intervenors and participating parties, primarily you see advocacies -- advocacy or support efforts from institutionalized groups that support oil and gas and can be considered, for all intents of purposes, special interests.
4553. Do these groups represent the will of the people in the communities through which Line 9B runs? Whose interests do they represent?
4554. The regular hardworking citizens that are participating in this process, for the most part, are echoing comments of concern and either requesting the NEB reject Enbridge's proposed request with respect to Line B or expressing concern and suggesting potential conditions to improve the public health and safety of the project.
4555. From this group, how many of these parties genuinely feel the project should be rejected on the grounds that it is not in the public interest but are suggesting recommendations or conditions because they believe its approval to be a certainty?

4556. Taking the submissions of this process as a whole and coupling them with the results from the survey of Burlington residents I conducted, I have to say I have serious doubts regarding whether this proposed project is effectively in the interests of the public.
4557. I believe there is strong evidence to suggest the changes proposed by Enbridge in this project are not in the interest of the public, particularly the request to increase capacity and transport bitumen.
4558. In fact, mostly, it is members of the public that stand to lose the most. Potential contamination of water supply, contamination of soil used to grow food to feed local communities and compromising land use in other respects, including significant adverse impacts for the local environment in the event of a leak or a spill.
4559. As an agency of the Government of Canada designed to serve the public and act on behalf of a representative government that ideally speaks for the interests of the public, I respectfully ask the Board to reassess the merits of this proposal.
4560. In closing, my recommendation to the Board is to reject the proposed project, particularly the request to increase the shipping capacity of the Line 9B pipeline and to use it to transport bitumen or heavy crude.
4561. These latter requests are of particular concern to myself as an individual, raising my young child in an affected community, they are of concern to the group of Burlington residents I represent, and they are of concern to members of the larger Burlington community as echoed in the survey I conducted.
4562. Therefore, if the Board finds reason to grant approval of the project, I would suggest rejecting the increase in pressure and most importantly, using the Line 9B pipeline for the transportation of bitumen or heavy crude.
4563. Regardless of which components of the request are approved by the Board, I would encourage the Board to be proactive in its development of conditions and regulations. All too often, processes such as these are characterized by reactive policy making; that is, enacting a regulation, requirement or policy change as a response once a problem has occurred.

**Final argument  
Grand River Indigenous Solidarity**

4564. Why wait until there is a problem, a leak or spill, for example, and potentially risk the health and safety of hardworking residents in affected areas when the Board has an opportunity to be proactive in its decision making and recommendations?
4565. The conditions or recommendations I have outlined in this presentation are those that I would emphasize, for utmost consideration.
4566. In closing, I thank the Board for its time and in moving forward with the proceedings. I would again respectfully ask that the Board allow the question of whether the proposed changes are truly in the public interest to guide its deliberation and decision making with respect to this project. As a member of the public, I can unequivocally say “it is not in mine”.
4567. Thank you.

--- (Applause/Applaudissements)

4568. **THE CHAIRPERSON:** You were clear, so thank you for your participation.
4569. **DR. GOODMAN:** Thank you.
4570. **THE CHAIRPERSON:** Now, we'll hear from Grand River Indigenous Solidarity, Mr. Dan Kellar with Ms. Rachel Avery.

**--- FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR GRAND RIVER INDIGENOUS SOLIDARITY:**

4571. **MR. KELLAR:** Good morning. This is my colleague Rachel Avery, and my name is Dan Kellar. Today we are presenting on behalf of Grand River Indigenous Solidarity a collective of settlers working towards decolonization.
4572. Our organization's -- our organizing is guided by the Two Row Wampum in a framework of coexistence based on autonomy and non-interference. We must -- we support indigenous self-determination and challenge the historical and ongoing oppression and dispossession of indigenous peoples and their lands by our settler governments.
4573. We'd like to begin today by acknowledging the land we are on today

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as the Anishinaabe Territory of the Mississaugas of the New Credit, and the land where our group organizes from is Blocks 2 and 11 of the Haldimand Tract which is in the Grand River Territory of the Six Nations Haudenosaunee.

4574. We say this to bring attention to our responsibilities as settlers on this land, responsibilities to the Onkwehonwe people and to the Treaties and agreements our governments and Crowns have made with them.
4575. We also say these things to base our conversation today with the understanding that the settler colonial state of Canada and its corporate agents do not have unfettered rights to the land. All settlers who build cities, borders, institutions and authorities here, and certainly those who extract resources from the land, have a responsibility to honour these Treaties that have allowed for the establishment of this society. In our lives and actions and through the people who act as our representatives in the government, this is paramount.
4576. We need to recognize that we are bound by international and nation-to-nation Treaties and agreements. Some made long ago, others more recently, that establish how relations are to move forward with peace, respect and friendship between the Canadian Crown and indigenous nations, and we need to act accordingly.
4577. This Line 9 reversal plan, the impacts from the extraction and refinement of the products it is to carry, as well as the forecasted rupture of the pipe, are all point sources of the ongoing colonialism and environmental racism prevalent throughout this oil-soaked colonial capitalist system.
4578. The Two Row Wampum, the Nanfan and the Haldimand Treaties, the Royal Proclamation, the Canadian Charter of Rights and Freedoms and the U.N. Declaration on the Rights of Indigenous Peoples are a few of the many Treaties and agreements we have made and which are being infringed upon by the Line 9 project proposal.
4579. With the understanding of the above responsibility to Treaties and knowing what those responsibilities entail, we insert that the NEB must reject this proposal and put a full stop to all ongoing decision making processes until they are prepared to fully honour their responsibilities as agents of the Crown.
4580. These responsibilities include ensuring that free, prior informed consent is sought from indigenous nations when a project that may impact them is

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- proposed, and that real consultation on such projects, not simply notification and follow-up, actually takes place before they are permitted to move forward.
4581.           If a corporation is undertaking a project, the NEB must still ensure the duty to consult is undertaken. And in this case, Enbridge must not move forward with their plans until that duty is honoured. On this point we ask if either the NEB or Enbridge feels that the duty to consult has been honoured and that the free, prior and informed consent of affected indigenous peoples has been sought and gained.
4582.           We also ask if the NEB and Enbridge will respect the right of indigenous people to say no to projects they deem unnecessary or too great a risk.
4583.           From presentations we have heard already, and evidence submitted by fellow intervenors, including Mohawk Council of Kahnawà:ke A53321, the Chippewas of the Thames First Nation A53523, and the Aamjiwnaang First Nation A54545. It seems that the NEB nor Enbridge have honoured the Treaties.
4584.           **THE CHAIRPERSON:** Mr. Kellar?
4585.           **MR. KELLAR:** Yes?
4586.           **THE CHAIRPERSON:** You're speaking fast.
4587.           **MR. KELLAR:** I can slow down a little.
4588.           **THE CHAIRPERSON:** Yes. Thank you.
4589.           **MR. KELLAR:** Sure.
4590.           While the NEB will not consider the upstream impacts from the extraction processes on stolen indigenous land in Alberta and North Dakota, it cannot ignore the cumulative effects of the petro-chemical industry which is toxifying the land at the western terminus of Line 9, the land of the Aamjiwnaang Anishinaabe.
4591.           The more than 60 industrial plants have earned the area the title, "Chemical Valley", which according to the World Health Organization is the most polluted area of North America.

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4592. Enbridge and the NEB must consider the increase toxic threat volatile fracked gas, tar sands bitumen and the diluents and the DRAs pose to the people of Aamjiwnaang and other residents of the area.
4593. **MS. AVERY:** Grand River Indigenous Solidarity has been part of regional opposition to the pipeline plan which coalesced in the Waterloo Region Coalition against Line 9.
4594. Together with other local organizations who signed on to our Declaration of Opposition to the Line 9 project and joined the coalition, we undertook a campaign of public education and outreach, as well as grassroots mobilizations and resistance to the pipeline reversal plan.
4595. Enbridge's consultation with our local region consisted of a 10-minute presentation with no questions in which they said dilbit will make up only a small fraction of product shipped and that everything associated with the project as a whole was safe.
4596. However, the Coalition Against Line 9 presented at Waterloo Regional Council, and since then the council has sent a letter to the NEB informing them of the intention to file a statement of concern over this project.
4597. While we recognize that the region's efforts come late to this process, I feel they would have spoken out sooner had Enbridge meaningfully and truthfully engaged them with the details of the proposal, since their concern about the project was evident.
4598. We found a similar situation when presenting to the Grand River Conservation Authority. There, staff was unable to answer questions about the products being shipped through the line despite taking part in the so-called emergency exercises run by Enbridge on the Grand River itself only days earlier.
4599. On pushing for greater consideration and initiative from the Grand River Conservation Authority, for regarding the responsibility for the health of the Grand River, the local coalition forced them to table the issue for discussion again and re-examine their data after the coalition's concerns were then echoed and amplified by several of the GRCA's members during this meeting.
4600. As similarly indicated by the Waterloo Regional Council's 11<sup>th</sup> hour engagement with this NEB process, we understand the GRCA's befuddled

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position to be symptomatic of Enbridge's lack of honest consultation with any of the many communities along Line 9's route.

4601. Kitchener MPP, Catherine Fife is also drafting a letter of support for the regional campaign against Line 9 and is supporting the call for provincial environmental assessment as a starting point for the project's assessment.
4602. Today we present to you the Declaration of Opposition to Enbridge's reversal of Line 9, along with the Coalition's 25 member organizations from our region who have signed on to this statement, and over 800 individual signatories who have joined them. An auspicious number which continues to grow as real public awareness of this project is increasing.
4603. Our Declaration of Opposition to Enbridge's reversal of Line 9. Line 9 is a 38 year old pipeline that has been transporting light crude oil between Montreal, Quebec and Sarnia, Ontario. The pipeline runs through hundreds of communities, the territories of many indigenous nations and dozens of watersheds including the Grand River.
4604. Enbridge Incorporated has applied to reverse the flow of the pipeline and send diluted bitumen, dilbit, a form of heavy crude from the tar sands through Line 9. This will threaten life around and downstream from the pipeline. Line 9 was not built to withstand the transport of diluted bitumen, a toxic compound that poses a particularly dire threat to communities and ecosystems.
4605. In 2010, a break in the nearly identical Enbridge pipeline in Kalamazoo, Michigan, caused the largest inland oil spill in American history which the company is still struggling to clean up three years later.
4606. When Enbridge proposed essentially the same project as the Line 9 reversal in 2008 under the name Trailbreaker, it was successfully opposed based on safety concerns. Just because Enbridge is currently seeking approval for the project piece-by-piece, the reversal of the first half last year, and the second half plus the transport of bitumen this year, there is no reason for us to accept it now. The threats remain just as serious.
4607. We the undersigned, declare our opposition to the reversal on these grounds. One, the transport of bitumen through this pipeline poses a terrible risk to the Grand River and the surrounding watershed. We all rely on the watershed to sustain life within this region, but given Enbridge's track record of pipeline

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- spills, leaks and failures, Line 9 will put the shared environment and collective health of our region in jeopardy. If we let this reversal happen, we are endangering drinking water for this region, as well as that of every community downstream on the Grand River.
4608. Two, reversing Line 9 will provide no benefits to the Waterloo region or local residents. It will not create jobs or provide new sources of energy for the municipality. Local industry is not supported by the pipeline and the bitumen passing through the pipeline will be shipped to markets in the United States and overseas.
4609. Yet, were a spill to occur, it would threaten the land on which our food is grown and the rivers and aquifers from which our drinking water is drawn. This reversal poses a great risk to farms, small businesses, public institutions, rural and urban communities alike and to our economy overall.
4610. Three, the reversal of the pipeline violates current Treaties with indigenous communities both within the Haldimand Tract and elsewhere along the route. There has been no free prior and informed consent from these communities with regard to this pipeline project which already cuts through their lands and territories. As residents on the Haldimand Tract Six Nations Grand River Territory, it is crucial that we respect and act on this responsibility to consult.
4611. Four, bitumen is more difficult and expensive to clean-up than conventional crude. Recent spills like the one in Kalamazoo, Michigan are evidence that Enbridge's clean-up process and safety procedures have been woefully inadequate in dealing with the inevitable release of toxic tar sands bitumen.
4612. Given Enbridge's track record of over 800 significant pipeline spills in the past 15 years alone, we can expect spill incidents along Line 9. It is not a question of if but when this will happen here. Enbridge expects local responders to take responsibility in such emergencies, thus, the cost of clean-up for a pipeline failure would result in increased financial burdens on local government and would tax the capacity of our emergency responders.
4613. Five, the reversal will further entrench our region in the carbon economy which contributes to climate change. This will lead to more frequent and devastating natural disasters. Pipeline projects like Line 9, the Keystone XL

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and Northern Gateway support the expansion of the Alberta tar sands industry.

4614. We envision a future where our lives and economies are not dependent on fossil fuels and do not contribute to the greenhouse gases and additional pollutants they produce. We recognize that supporting further extraction in our sands and other fossil fuel energy sources will continue to prevent the development of real sustainable alternatives.

4615. **MR. KELLAR:** To expand on a couple of the points on the declaration and to pull evidence from our submission -- sorry -- pull from our evidence submission, Treaties, far from relics of the past, are agreements that continue to govern how we are to live on this land and our responsibilities in relation to the indigenous communities on whose land we reside.

4616. There are many Treaties that outline the responsibilities of the Canadian state and its constituents which are applicable to the region of Waterloo situated on the Haldimand Tract and the length of Enbridge's Line 9 pipeline. As it stands, the reversal project is in contravention of many Treaties and international agreements. These include the Two Row Wampum Treaty.

4617. This Treaty, recorded in a Wampum Bill, outlines a model of coexistence between the Haudenosaunee and settlers. It is a non-interference agreement based on the principles of peace, respect and friendship in order to make decisions about our shared land base without interfering in the other parties' course as a society. Following in the spirit of this agreement requires consultation and free prior and informed consent. This has not occurred for the reversal of Line 9.

4618. The Haldimand Treaty: Six Nations was given a tract six miles wide on either side of the Grand River in recognition of the role defending Upper Canada during the American Revolution and in compensation for their lands lost in what is now the United States. This tract, which them, in their posterity, are to enjoy forever, extends along the entire length of the Grand River. Six Nations currently has less than 5 percent of the original land granted in the Haldimand Treaty. By threatening the land surrounding and downstream from Line 9 the intent of the Haldimand Treaty is violated.

4619. The Fort Albany or the Nanfan Treaty: Beyond the lands allotted in the Haldimand Treaty the Nanfan Treaty assures the protection of Six Nations ability to hunt and fish in the territory extending across the majority of Southern

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Ontario, rights affirmed by the Canadian Charter of Rights and Freedom, Section 35(1).

4620.           Indeed, the Charter states that the duty to consult arises when the Crown has knowledge or the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it. Thus, the government is obligated to consult Six Nations before a project that would impact their ability to hunt and fish on Nanfan lands, as the Line 9 reversal well could, is commenced.

4621.           The Royal Proclamation is a document that set out guidelines for European settlement of Aboriginal territories in what is now North America. The Royal Proclamation explicitly states that Aboriginal title has existed and continues to exist, and that all land would be considered Aboriginal land until ceded by Treaty. The proclamation forbade settlers from claiming land from Aboriginal occupants unless it has been first bought by the Crown and then sold to the settlers. The Royal Proclamation further sets out that only the Crown can buy land from First Nations. This document was further understood at the Treaty of Niagara, 1764.

4622.           Also, the Canadian Charter, Section 35 of the Canadian Charter recognized and affirmed the existing Treaty rights of the indigenous peoples of Canada affectively reaffirming the Royal Proclamation of 1763 in the process. With non-compliance of above Treaties and agreements, Enbridge Corporation and the Crown are in contravention of the Canadian Charter.

4623.           And finally, the United Nations Declarations on the Rights of Indigenous Peoples, this declaration, to which Canada is a signatory, includes many stipulations to ensure rights of indigenous peoples with regard to land, culture and political self-determination. Paramount among these is the necessity of free prior and informed consent for decisions impacting indigenous peoples or lands.

4624.           The declaration states in part that indigenous peoples have the right to participate in decision making in matters which would affect their rights through representatives chosen by themselves in accordance with their own procedures; that indigenous peoples have the right to these lands, territories and resources which they have traditionally owned, occupied, or otherwise used or acquired, and that indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. These rights have been thoroughly disregarded by Enbridge and the

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- Canadian government in planning the Line 9 reversal.
4625. Enbridge's interactions with Six Nations, regarding the reversal under the guise of consultation in fact consists of notification. Presenting their own information and fielding questions, which is what they have done, is not equal to consultation.
4626. When pressed about these matters, Enbridge has made statements including, Enbridge has not reviewed any Treaties as a result of the project and claiming the scope and location of the work associated with the project is not anticipated to affect any Aboriginal groups nor to affect exercising of Aboriginal Treaty rights.
4627. But as is made clear in the Treaties discussed above, by failing to engage meaningfully in consultation and obtain free prior and informed consent, Enbridge and the Crown are interfering with fundamental Treaty rights of Six Nations and other indigenous communities along the pipeline's route and disregarding their own Treaty responsibilities.
4628. **MS. AVERY:** Enbridge's proposal, in addition to violating Treaties in its basic process, poses a grave threat to ecosystems adjacent to and downstream from Line 9. In Waterloo region Six Nations land the risk to the Grand River watershed is substantial. As Line 9 crosses it and its tributary the Nith River, there is an immediate danger of a spill into this water system which in turn feeds into Lake Erie.
4629. We will now highlight particular risks of the Line 9 proposal faced by ecosystems and local use of land in the region of Waterloo.
4630. The transport of bitumen through this pipeline poses a terrible risk to the Grand River and its watershed. We all rely on the watershed to sustain life within the region, but Line 9 will put the shared environment and the collective health of our region in jeopardy.
4631. The Grand River watershed is the largest watershed in Southern Ontario, encompassing all of the land drained by the Grand River, which is 6,800 square kilometres. The headwaters of the Grand River begin in the area of Dundalk, Ontario, flowing south from there to drain into Lake Erie. Waterloo region is situated in the central portion of the watershed, an area which includes numerous moraines as well as the Norfolk Sand Plain.

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4632. According to the Grand River watershed characterization report these specific ecosystems are home to some of the most complex groundwater systems and most specialized wildlife habitats in the province. The Grand River Conservation Authority has documented that 80 percent of the classified species at risk in Ontario can be found in the Grand River watershed, including endangered species like trumpeter swans and the bald eagle.
4633. With the wealth of rich farmland fed by the watershed local food systems in the region of Waterloo are positioned to be at risk of an oil spill. The land is intensively used for both mixed farming as well as cash crops, with 75 percent of the watershed actively farmed on 6,400 farms which feed residents and the local economy overall.
4634. However, the frequent tilling and planting makes these nutrient dense soils more permeable which in turn makes it easier for contaminants to penetrate and pollute the soil and groundwater alike.
4635. Most important to municipalities in Waterloo region, is the safety of drinking water supplies which come from three sources throughout the watershed; groundwater wells 69 percent, rivers 29 percent, and the Great Lakes 3 percent.
4636. Since groundwater systems directly feed the Grand River which in turn drains into Lake Erie, if an oil spill occurs in one area it has the grave potential to impact the entire watershed. It is understood that because the Grand River watershed is such a large and complex web of ecosystems, even if the spilled oil is prevented from spreading further, the initial contamination will nonetheless affect the health and diversity of the region as a whole.
4637. Following on increasing calls of concern from local residents, Enbridge scrambled to conduct an eleventh hour emergency exercise for the region on September 25<sup>th</sup>, 2013, in the local Township of North Dumfries. The exercise included a mock release of 1,400 barrels of crude oil into the Grand River. According to the report presented to the Waterloo Region Police Services Board in the week prior, if a spill does occur, people living in the area, may be forced to relocate to an emergency shelter.
4638. The exercise purported to test capacities of local emergency services to respond in the immediate aftermath. The potential long-term effects on health and environment in the region have yet to be considered.

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4639. The economic consequences of the reversal are also unfavourable for those other than Enbridge itself. The reversal will not generate local jobs, nor will it supply other financial benefit. It does however present serious economic costs in the event of a spill. In the Waterloo region a spill would be devastating for local farmers with the contamination of croplands and agricultural areas.
4640. Further, any spill locally or along the route is likely to affect major bodies of water and watershed systems. Were a spill to occur, it is likely that contaminants would wash into the Grand River and its watershed.
4641. The contamination of the local water supply is also potentially devastating for agricultural communities and all those who rely on the watershed for economic activities. A spill would grind many types of economic activity to a halt.
4642. And with Enbridge's track record, and the fact that Line 9 is of the same vintage as Line 6 that ruptured in Michigan after having been subjected to the same changes that Enbridge is proposing here, it is only a matter of time before we will have to deal with a Line 9 spill.
4643. Overall, Line 9 will be all risk and no benefit, to both the economy and the environment in Waterloo region.
4644. We would like to now focus on the inability of the Enbridge Corporation to keep the toxic products they are shipping in their pipelines and pumping stations or to effectively clean up their toxic mess once their systems fail.
4645. Beyond the 12 or so large spills Enbridge has reported on Line 9 over its operational history, we must point out the startling and sobering evidence that their own most recent integrity assessment, B1-15 of A49446, found more than 200 previously undetected cracks, 56 new dents and 9 fresh corrosion issues.
4646. Additionally, Enbridge reported over 800 significant spills in the period between 1999 and 2010. And we cannot help but bring up once again the devastation caused by the Line 6B pipeline rupture and the systemic failure of the company to effectively mitigate the impact of the break.
4647. The incompetence shown by Enbridge in the Line 6 situation cannot

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- be swept away with a statement from the company claiming that they have changed.
4648.           Compounding on the shameful situation in Michigan, is news that Enbridge is failing to compensate Tribal Councils and other affected authorities for costs incurred in the pipeline rupture response and clean-up attempts which are still ongoing even now, more than three years later.
4649.           In addition to reversing the flow of the pipeline, changing the products to be shipped throughout to include tar sands products and increasing the daily capacity of the line, it also appears that Enbridge seeks to operate the line at a higher pressure than it has previously sustained. The same combination of changes to pipeline operations led to the failures of Line 6B in Michigan and Exxon's devastating 2013 Pegasus pipeline failure in Arkansas.
4650.           **MR. KELLAR:** In addition to the work of the Grand River Indigenous Solidarity, the Waterloo Region Coalition Against Line 9 and fellow NEB intervenor Louisette Lanteigne, a group with a history of intervention in tar sands project, the Climate Change Containment Unit, also participated in the local resistance to Line 9.
4651.           Although they were not able to submit as intervenors, we'll use this opportunity to present the critical reflections the CCCU posted around the region following a training exercise on the Grand River, carried out by Enbridge.
4652.           On September 25<sup>th</sup>, 2013, Enbridge pipeline Inc. and local municipalities staged an emergency response exercise involving a simulated oil spill of Enbridge's Line 9 in to the Grand River Six Nations Territory. The Climate Change Containment Unit, the CCCU, whose rapid responders were present on scene to monitor the situation has conducted a review of the exercise and is providing notice of its findings.
4653.           Enbridge exercise -- Enbridge's exercise simulated the death of the Grand River. Forecasting Line 9's impending failure and the response was fundamentally inadequate, to address the impacts of a real spill.
4654.           The CCCU finds that Enbridge's exercise amounted to a media stunt without grounding in environmental protection. The CCCU's experts were on river and observed a high rate of flow, above seasonal norms, that would have carried a bitumen spill far further downstream than Enbridge accounted for.

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4655. Their six hours onsite were insufficient to contain the scenarios overnight rupture of Line 9. Enbridge's exercise is designed for dealing with conventional light crude and they have not provided training for dealing with diluted bitumen or dilbit, which is proposed to be shipped through Line 9.
4656. In statements made to media present at the exercise, Enbridge stated that it considers dilbit to be the same as light crude.
4657. The CCCU notes that unlike conventional crude, dilbit is -- in fact, sinks in bodies of water, making its clean-up much more challenging and costly. Enbridge's exercise hinged on a boom dragged across the river, designed to halt the flow of oil on the surface of the water. Entirely ineffective for dilbit.
4658. Enbridge's response to the 2010 rupture of the Line 6B in Kalamazoo, Michigan, evidences their lack of preparation for such a situation, as well as the extreme measures required to remove spilled dilbit.
4659. As occurred here, emergency responders in Michigan were trained by Enbridge to respond to a pipeline failure, but this preparation was entirely insufficient when 3.3 million litres of dilbit devastated 60 kilometres of the river.
4660. Alarmingly, the Grand River Conservation Authority, entrusted with the maintenance of the river, was unaware of Enbridge's plan to ship dilbit and fracked oil in Line 9. They are participating in Enbridge's media stunt in preparing for inevitable clean-up rather than protecting the watershed.
4661. The exercise, planned by Enbridge, involved municipalities and the GRCA, but failed to include Six Nations whose Treaty land includes the Grand River. This failure to include the Haudenosaunee continues Enbridge's pattern of disregarding the need to engage in consultation and obtain the free prior and informed consent of indigenous peoples on whose territory they operate.
4662. The CCCU notes that this disregard for Treaties and other international agreements is standard to Enbridge and other corporations engaged in extractive industry and continues the process of colonization championed by the Canadian state.
4663. The tar sand themselves are affecting the genocide of indigenous communities in their vicinity and wherever this bitumen is shipped.

4664. After each failure of their infrastructure, Enbridge claims to have changed their policies and safety procedures. However, Enbridge has documented 804 significant spills on their lines from 1999-2010. And their pipelines continued to break, including Line 37 in July, which Enbridge attribute to too much rain, a symptom of the extreme weather events characteristic of continuing climate change.
4665. The CCCU concludes that Enbridge's Line 9 reversal project poses a substantial risk to the watershed, further, by their dangerously inadequate clean-up procedures and refusal to engage in meaningful consultation.
4666. Furthermore, the Line 9 reversal supports tar sand expansion and traps us in the carbon economy, fuelling climate change and its intended destruction of the environment and communities.
4667. **MS. AVERY:** In conclusion, it is our assertion based on both our own research and the evidence presented by other intervenors in this process, including Rising Tide Toronto and their comprehensive submission, Document A53333; the Algonquin to Adirondack's Collaborative with their demand for adaptive not "one-size-fits-all" plans, Document A53443; DurhamCLEAR and their critique of the safety systems, A53330; and Louisette Lanteigne and notes around pipeline eating bacteria, Document A53270; and those already mentioned, that the NEB has no choice but to reject the proposal to reverse the flow of Line 9 and ship heavy crude through this pipeline.
4668. Between a lack of consultation with and not seeking the free prior and informed consent from impacted indigenous nations, the paltry notification Enbridge supplied to impacted municipalities, the poor communication towards landowners and the very real and dangerous threat that a rupture of Line 9 carrying bitumen proposes, this project cannot be considered to satisfy any measure of environmental safety or responsibility.
4669. Additionally, the process used to approve it stands in violation of Treaty responsibilities and notions of democracy that the state of Canada proclaims as fundamental. Thus, we encourage the NEB to act in the manner that honours its Treaty responsibilities and basic duties to protect the environment and communities from the disasters that would inevitably result with the approval of Enbridge's Line 9 proposal.

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4670. Thank you.

4671. **THE CHAIRPERSON:** We have no question and we thank you for your participation.

4672. **MR. KELLAR:** Thank you.

--- (Applause/Applaudissements)

4673. **THE CHAIRPERSON:** We will now hear from Great Lakes and St. Lawrence Cities Initiative. Ms. Nicola Crawhall and monsieur Philippe Chenard.

**--- FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR GREAT LAKES AND ST. LAWRENCE CITIES INITIATIVE:**

4674. **MS. CRAWHALL:** Madame la présidente and Members of the Board, thank you for giving the Great Lakes and St. Lawrence Cities Initiative the opportunity to present its final oral arguments.

4675. My name is Nicola Crawhall; I'm the Deputy Director and I am accompanied by my colleague, Philippe Chenard, Policy and Program Manager at the Cities Initiative.

4676. The Great Lakes and St. Lawrence Cities Initiative is a binational coalition of 109 mayors, representing over 16 million people in the cities across Quebec, Ontario and the eight U.S. Great Lakes states.

4677. The Cities Initiative works actively to advance the protection, restoration and promotion of the Great Lakes and St. Lawrence River Basin.

4678. Our members, the City of Hamilton, the Region of Halton, the City of Mississauga, the City of Toronto, the Town of Ajax, the City of Kingston and the City of Montreal have also provided input into this hearing process.

4679. The rapid increase in volume of oil and gas being transported from western producing regions across the Great Lakes and St. Lawrence basin towards eastern refineries and markets has become an issue of great interest to municipalities in recent years. It raises many questions and concerns for local communities and residents.

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4680. The Cities Initiative recognizes that some local governments will reap some economic benefits that come with refining and distributing oil and gas being transported from the west. At the same time, it's absolutely essential that as the volume and nature of the conveyed oil changes, so too must the sophistication of safety measures and oversight.
4681. The Kalamazoo spill and the Lac Mégantic tragedy are two recent examples of a failure of both oversight and safety measures over the long range transportation of oil product. They illustrate all too graphically that both safety measures and oversight must be strengthened before any further expansion of the transportation of oil or gas product is approved by the Energy Board, including the proposal before this hearing.
4682. These concerns are supported by the investigation of the rupture of Enbridge's Line 6B in Marshall, Michigan on July 25<sup>th</sup>, 2010. In its final report, the U.S. National Transportation Safety Board finds deficiencies in Enbridge's planning and operations at every level. From the techniques used to assess cracks in the pipeline, the knowledge, experience and training of Enbridge's control centre staff, the lack of planning to identify and involve additional emergency response resources, the adequacy of equipment used onsite to contain the spill.
4683. The NTSB [*NTSB, Exhibit C59-10-2, p.116*] referred to a "culture of deviance", where not adhering to formal procedures became the norm. Given this assessment, municipalities have felt the need to become much more involved and informed in this Line 9 proposal.
4684. Concerns are increased by the fact that Line 9 runs within 7 kilometres from Lake Ontario as it passes through the Greater Toronto Area. In Toronto alone, it crosses six of its major tributaries, each of them discharging close to the City of Toronto's water treatment intakes. The pipeline also crosses or runs adjacent to two 400 series highways, some of the busiest in North America.
4685. In our comments to you today, we will focus on the direct interest and related responsibilities of municipalities with respect to the Line 9 proposal. Municipalities are first responders in the case of a spill or other emergency, and provide safe drinking water to millions of residents and businesses in the Great Lakes and St. Lawrence region.
4686. And for this reason, it is our direct -- in our direct interest to ensure

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that the NEB fulfills its duty to ensure that this intraprovincial transportation of oil and gas is done in a way that guarantees the physical integrity and ongoing maintenance of Line 9; guarantees the safety of the residents and businesses along the pipeline route; guarantees the safety of drinking water drawn from surface and groundwater within the Great Lakes and St. Lawrence Basin; guarantees a high standard of preparedness, training and equipment availability in the event of a spill, and the efficient and rapid response to spills if they occur, in direct coordination with municipal first responders, and guarantees complete remediation and full financial compensation to municipalities and those affected on the ground, in the event of a spill.

4687. In reviewing the documents provided by Enbridge in advance of this hearing, and in answers the company provided to our questions to date, the Cities Initiative found that there remains a great deal of uncertainty and vagueness about all of the above issues.

4688. We would respectfully request that the NEB ensure that these issues are addressed to the highest standard by Enbridge before any approval is issued.

4689. And I will now ask Monsieur Chenard to elaborate on these issues.

4690. **MR. CHENARD:** Thank you.

4691. Madame la présidente, Members of the Board, bonjour, good morning.

4692. Before I begin, I would just like to mention that I will skip the exhibit numbers, but if ever needs be, at the question periods I will be able to refer to them.

4693. So as Ms. Crawhall said, I intend to focus on seven issues presented in our written evidence. In each case -- I think I've got some electric bill coming up ---

4694. **MEMBRE GAUTHIER:** C'est votre -- c'est votre BlackBerry qui ---

4695. **MR. CHENARD:** Good.

4696. So, in each case I will present a review of facts before submitting recommendations to the Board. These issues were identified in discussions with

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our member cities, including some who are not participating in the present hearings.

4697. We'll see if that works,

4698. So, Issue Number 1, is regulation exemption request. In its November 2012 application to the NEB [*Exhibit B1-2, p.19*], the company has requested an exemption pursuant to section 58 of the NEB Act, which states that the NEB may make an order exempting extensions to pipelines from the provisions of section 47.

4699. This section specifies that, quote:

*“No pipeline and no section of a pipeline shall be opened for the transmission of hydrocarbons or any other commodity by a company until leave to do so has been obtained from the Board.”*

4700. End quote.

4701. The Cities Initiative asks that the NEB reject this specific request, and orders the company to submit an application for authorization in service before starting to operate the pipeline with a reversed flow.

4702. This concern has also been raised to the NEB by the City of Montreal [*Exhibit no. D43-2, Letter of Comment, p.16, section 6*] and the Regional Municipality of Vaudreuil-Soulanges. [*Exhibit C44-2-1, p.15*]

4703. Issue Number 2, monitoring and prevention actions of the company. To ensure that engineering, safety and environmental requirements are met, Articles 53 and 55 of the NEB Onshore Pipeline Regulations calls for pipeline inspections, as well as management and protection program audits to be conducted by the company, in compliance with NEB standards and regulations, but without any additional oversight.

4704. There are concerns over the monitoring and maintenance capacity of the company. As an example, in its report on the Kalamazoo spill, the U.S. National Transportation Safety Board or NTSB, [*NTSB, Exhibit C59-10-2, p.33*] found that Enbridge knew about the roughly 15,000 defects in Line 6B some five years before the spill and excavated to inspect just 900 of them, obviously not

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- including the corrosion and cracking that was underway on Line 6B near the Kalamazoo River.
4705.           Enbridge has declined our request [*Exhibit B18-30, p. 7, Question no. 9*] to share the results of its 2012 inspection and data analysis of Line 9 to concerned parties and the general public, and its review by an independent monitoring agency, a recognized expert from industry or academia.
4706.           The Cities Initiative calls on the NEB either to conduct an independent review process of both management and protection programs, either by internal resources, a mandated third-party organization or any other independent authorities, and make those results public. Such a recommendation has also been requested by the City of Kingston. [*Exhibit D37-2, p. 2, section 12*]
4707.           Issue Number 3, potential environment impacts on the water resources. The protection of water resources is a prime focus of the Cities Initiative member concerns. It is essential to know that the potential impacts on surface and groundwater quality of transporting oil through pipelines. It is important to ensure that no industrial activity affects the ability of municipalities to ensure a constant supply of safe drinking water.
4708.           In the Enbridge application, [*Exhibit B1-2, p. 49*] the impact on the water quality and quantity is mentioned in section 5 of the environmental and socio-economic impact assessment. However, only groundwater wells located within a given range of the project sites were considered.
4709.           Notably, no evaluation of risks through major surface waterways, including Lake Ontario, the St. Lawrence or their major tributaries had been conducted at the time of our information request was made. In our view, that was an enormous and unacceptable omission.
4710.           In replies to the Cities Initiative, Enbridge confirmed that it had not conducted a risk assessment study at that time [*Exhibit B18-30, p. 12, Question no. 22*] nor did it possess any information from an independent agency, peer review, economic research or governmental agency that would assess such a risk following a significant spill of heavy crude oil, reaching major waterways that would get it in close proximity to the pipeline, and ultimately the risk to public water intakes.
4711.           Enbridge states that, quote:

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*“Although it is unlikely that a release would reach Lake Ontario, in conducting the High [Consequences] Area analysis, Enbridge has conservatively assumed that, in the event of a release, a product released into a waterbody that drains into the Great Lakes will reach the Great Lakes; and a product that has been assessed to have the potential to reach the Great Lakes by overland transport will do so. Given the assumption that the product would reach Lake Ontario, there was no need to assess the time required to do so.” [Response to Ontario Ministry of Energy IR2, Exhibit B35-38, p. 11, section 2.7]*

4712. End quote.

4713. The Cities Initiative, as a condition to an order of approval by the NEB, request that the company conducts a comprehensive risk assessment study on the possibility of a significant spill reaching major waterways located in close proximity to the pipeline, including response time depending on the location and size of a spill or any other incident.

4714. Subsequent to the results, we request that Enbridge consult with local and regional water protection staff and relevant department responsible for the supply of drinking -- drinkable water to identify possible threats and how to optimize response plan accordingly.

4715. We request that the NEB not to assign the necessary approval for the project on the basis of simple commitments but actual demonstrations of the company willingness to share the information requested by local authorities in active participation with emergency responders.

4716. We bring to the Board’s attention that similar requests for protection of local freshwater sources and required action by Enbridge have been made by a number of our member cities, notably the City of Montreal, [Exhibit no. D43-2, p. 10, section 2.5.2] the City of Toronto, [Exhibit C40-7-2, p. 10-18, sections 38-78] the City of Kingston, [Exhibit D37-2, p. 2, section 6] and the Regional Municipality of Durham. [Exhibit D41-3, p. 2]

4717. Issue 4, emergency preparedness response capacity and clean-up operations. A major pipeline failure can set off a complex chain of events that

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often involve many separate and compounded hazards. To help minimize the impact of pipeline emergencies, municipalities as first responders need to establish a close and open relationship with pipeline operators in their respective jurisdictions. Regrettably, Enbridge communications and coordination with municipalities and first responders to date have not been wholly satisfactory.

4718. While Enbridge did detail some of the company's emergency preparedness and response capacity, for example, response equipment located at staff location [*identified in Exhibit B22-23, Ontario Ministry of Energy IR 1.45a, in Exhibit B18-12, Attachment 1 to Mississaugas of the New Credit IR 1, Question 17*] and its Enbridge emergency response plan, [*Exhibit B22-19, response to Ontario Ministry of Energy IR 1.44.b.v*] a lack of information is still -- still persists in many communities along Line 9.
4719. In their letter of comments, written evidence and oral presentations to the Board, several municipalities, such as the Regional Municipality of Vaudreuil-Soulanges, [*Exhibit C44-2-1, p. 9*] the Regional Municipality of Durham, [*Exhibit D41-3, p. 3*] and the City of Toronto, have underlined that while Enbridge has visited their respective communities within the last year, the information obtained was deemed insufficient and incomplete to assure any proper preparation of local emergency response should a major spill or any other significant incident occur.
4720. For example, participating municipalities in this review, such as the City of Mississauga and the City of Toronto, both raise a concern that Enbridge has but limited knowledge of their stormwater systems, nor know where it should contain a spill to prevent it from entering their municipality -- municipal stormwater systems.
4721. We do -- however, when asked to detail how and with which parties an emergency response plan would roll out in the event of a spill, Enbridge response was to submit a heavily redacted version of its emergency response book, [*Exhibit B22-19, Attachment 1 to Ontario Ministry of Energy, IR2, Exhibit 22-19, section 1.44.b.v*] citing safety, security and proprietary issues.
4722. Also, when questioned by the Cities Initiative about its response capacity along the longer stretches of the pipeline between shutoff valves, [*Exhibit B18-30, p. 11, Question no. 19*] Enbridge simply replied, quote, "response capabilities are strong across the entire pipeline system" -- end quote -- without providing any additional detail or explanations.

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4723. The City Initiative recommends that the NEB evaluates Enbridge integration with local emergency services in the prevention, preparation and response to a major spill or other event, as well as evaluate its intervention plan and instructions.
4724. In addition, the NEB should request that Enbridge deliver on an annual basis, emergency response training and detail information sessions regarding Line 9 to Conservation Authorities, regional and local municipal staff and emergency services personnel for all communities located on the path of Line 9.
4725. The Town of Ajax, [*Exhibit D42-2, letter of comment, p. 3, section 4*] the City of Mississauga, [*Exhibit C45-9-2, written evidence, p. 13-15, sections 60 to 75*] and the City of Toronto [*Exhibit C40-7-2, written evidence, p. 4-7, section 15 to 28*] all offered detailed information on what such sessions should include.
4726. The Cities Initiative also asked the NEB to conduct a full review of the original and unredacted version of Enbridge emergency response book in order to assure for the entire length of Line B, a rapid and effective response in the sensitive areas like water crossings, wildlife reserves and communities, as well as adequate support provided to local first responders in the first hours of an incident.
4727. More detail must be given by the company regarding which factors would warrant contracted emergency responders in addition to or in place of Enbridge personnel and resources.
4728. The Cities Initiative recommends that additional stop or isolation valves be installed by Enbridge on pipeline 9B near each major waterway crossings, a request echoed by the Town of Ajax, [*Exhibit D42-2, p. 2*] the City of Kingston, [*Exhibit D37-2, p. 2*] the Regional Municipality of Durham, [*Exhibit D41-3, p. 2*] the City of Mississauga, [*Exhibit C45-9-2, p. 3, section 7.iv and 7.v, p. 10, sections 35 to 40, and p. 11, sections 44 to 49*] and the City of Toronto.
4729. This being said, we do acknowledge the intelligent valve study mentioned recently by the company.
4730. The Cities Initiative also reiterates the demand made by several of our member cities in the GTA, notably the Regional Municipality of Durham, [*Exhibit D41-3, p. 2*] the City of Mississauga, [*Exhibit C45-9-2, p. 3, section 7vi to 7viii*] the Town of Ajax [*Exhibit D42-2, p. 2*] for Enbridge to establish an

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- additional intervention team, either by the company or through a third-party. This requirement is deemed essential to achieve an adequate response time in all of the GTA.
4731. At the present time, it appears that the intervention team's location may be unable, given the uncertainties of weather, traffic conditions and time of day to respect Enbridge benchmark of reaching any incident location within four hours.
4732. A four-hour response time in the most populated region of Canada is simply unacceptable. We therefore welcome your recent announcement made by Enbridge of a planned pipeline maintenance work crew in Mississauga and ask the NEB to assure proper follow-up of this commitment.
4733. Issue Number 5, clean-up operations. According to the American Federal Environmental Protection Agency or U.S. EPA, the clean-up of dilbit poses special risks. Its characteristics create challenges for clean-up efforts in rivers, wetlands and other water related environments.
4734. In the case of conventional oil spills, the usually -- sorry -- the usual primary line of defence against such spills such as booms, skimmers and sorbent materials contain and recover oil floating on the water surface.
4735. However, unlike conventional crude oils, a high percentage of dilbit is composed of raw bitumen that is heavier than water. Following a release, the heavier fractions will sink into the water, as indicated by a recent report by Jeff Short, a chemist which worked for the National Oceanographic and Atmospheric Administration or NOAA.
4736. In these cases, the clean-up of a dilbit spill may require significantly more dredging than a conventional oil spill. Removing this substance from river sediment and shores may require more aggressive clean-up operations than of conventional oil spills in the event of a major event on the surface waterway.
4737. Uncertainty, therefore, remains about the environmental challenges, necessary equipment and greater costs associated with dilbit clean-up, a fact disputed by Enbridge despite the empirical evidence given by the Kalamazoo River clean-up. However, the detailed plan of any future clean-up operation resulting from a spill in similar conditions is not presented in Enbridge's applications.

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4738. This issue of the uncertainties of the effect of a spill of diluted bitumen into water resources has also been raised by the City of Mississauga. [*Exhibit C45-9-2, p.11, section 50*]

4739. When asked by the Cities Initiative about the eventuality of a crude oil release on a major drinking source, [*Exhibit B35-26, Response to the GLSLCI, p.14, FIR no.13*] Enbridge's reply was that -- quote:

*"...they would work with the impacted municipality, as soon as possible, to establish an alternative source of drinking water until such time that it was identified that the original water source was safe to extract from."*

4740. End of quote.

4741. Without providing any further detail.

4742. The Cities Initiative recommends that an independent study, overseen by the NEB, be conducted to determine if and how the specifics of a dilbit clean-up may differ from a conventional oil spill, and how this may impact the environment and affect preparedness and response to dilbit spills.

4743. In addition, the Cities Initiative asks the NEB that any Enbridge protocol or evaluation system based on the criteria enumerated by the company and used to trigger an intervention be made public, or, if such a protocol or evaluation does not exist, to have one produced and distributed to concerned municipalities, first responders and other stakeholders.

4744. Issue number 6, creation of a spill contingency or liability fund. Recent incidents in North America have shown that in the event of a major disaster, costs of clean-up and restoration tend to exceed initial estimates. In its application [*Exhibit B1-2, p.19*] Enbridge says that -- quote:

*"It has developed [several] general, and [...] develop Project-specific programs to ensure that the recommended mitigation measures and commitments made in [its] Environmental and Socio-Economic Impact Assessment [...] are implemented throughout the construction and operations phases of the Project."*

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4745. End quote.

4746. The company state that while it possesses adequate resources to satisfy its obligations in the event of a spill, it was supportive of the concept of a national fund to address clean-up and related costs associated with an oil spill, and that it would participate in the development of such a fund with industry, governments and others stakeholders, if such a process was to be instituted. *[Exhibit B35-26; Response to GLSLCI, p. 15, FIR no.14]*

4747. This is particularly important in cases where a spill is caused by the actions of a third party, Enbridge having indicated that it may then not be financially liable as indicated by the City of Toronto. *[Exhibit C40-7-2, City of Toronto Written Evidence, p.8, section 31]*

4748. As for an estimate of possible clean-up costs, Enbridge's U.S. affiliate, Enbridge Energy Partners, declared last March in their regulatory filing to the U.S. Securities and Exchange Commission that the clean-up tab for the 2010 rupture and spill in the Kalamazoo River could reach nearly a billion dollars, 175 million above a previous estimate after it was ordered back to the site by the U.S. EPA to conduct additional containment and recovery of submerged oil.

4749. But when asked about its coverage if any major incident should occur, Enbridge stated that, quote:

*"The availability of insurance coverage is subject to variability from year to year based upon loss events and insurance market conditions." [Exhibit B35-26; Response to GLSLCI, p. 21, FIR no.16]*

4750. In order to cover for any eventual costs of a spill or any negative externality, one U.S. and one Canadian model, both related to the energy sector, offer relevant examples: First, created in 1990 under the *U.S. Oil Pollution Act*, the Oil Spill Liability Trust Fund details how the owner or operator of a facility from which oil is discharged is liable to the costs associated with the containment or clean-up of the spill and any resulting damages.

4751. The primary source of revenue for the fund was a five cents per barrel fee on imported and domestic oil, whose collection ceased the last day of 1994 because of a "sunset" provision in the law. Other sources of revenue for the fund

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- include interests from capital, cost recovery from parties responsible for spills, and any fines or civil penalties collected by the U.S. EPA.
4752.           The fund can provide up to a billion dollars for expenditures of removal actions, carry out natural resource damage assessments and restorations, pay claims for uncompensated removal costs and conduct research and development.
4753.           Second, a system exists in Canada to cover spills caused by shipping activities. The Ship-source Oil Pollution Fund, or SOPF, which can be used to pay claims arising from spills of both persistent and non-persistent for all type of vessels, but not provision -- but there is no provision currently for land or pipeline-related spills.
4754.           While the NEB indicated in its NEB RH-2-2008 Decision that abandonment costs remain the ultimate responsibility of individual pipeline companies, the Cities Initiative recommends that given the high costs potentially incurred by ruptures and spill, and in order to provide financial assistance to the various levels of government for costs related to emergency response, clean-ups and other required action, the NEB should create a comprehensive oil spill or liability trust fund, financed, for example, by a fee on each barrel of oil conveyed.
4755.           This fund would be managed by the NEB or another independent or governmental agency or department. The Cities Initiative shares the opinion that regular and constant funding is necessary to assure adequate coverage of any future clean-up activities and abandonment costs.
4756.           In addition, the Cities Initiative recommends that the NEB reviews, at least on annual basis, Enbridge insurance limit to confirm adequacy and appropriateness of available coverage limits to satisfy obligations and liabilities that may arise from any major spill, at an amount minimally equivalent to the total clean-up costs of the 2010 Kalamazoo rupture and spill.
4757.           We notify the Board that these two last recommendations have also been made by our member cities, notably the City of Montreal, [*Exhibit no. D43-2, p.16, section 5.2*] the City of Mississauga, [*Exhibit C45-9-2, p.16, sections 79 to 84*] and the City of Toronto. [*Exhibit C40-7-2, p. 8-9, section 29*]
4758.           The last point, number 7, economic rationale of the project. The uncertainty regarding the ultimate location of the Montreal terminal of Line 9 has

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been underlined by the City of Montreal, [Exhibit no. D43-2, p.15, section 4.3] which has a direct interest in the economic benefits of the Enbridge project.

4759. In its application, [Exhibit B1-2, p.19, p.18] Enbridge states that, quote:

*"The purpose of the Project is to respond to requests from eastern Canadian refineries to have access to the growing and less expensive suppl[y] of crude oil production from western Canada and the U.S. Bakken region."*

4760. However, when asked about the final destination and the expected markets of the project and guarantees relative to the location of Line 9B's terminal, [Exhibit B35-26; Response to GLSLCI, p. 4, FIR no.4] the company repeated the description of the project and answered that, quote:

*"Any plans or considerations to transport crude beyond the Montreal Terminal are outside the scope of the Project."*

4761. End quote.

4762. Before indicating in the follow-up information request answered, [Exhibit B35-26; Response to GLSLCI, p. 5, FIR no.4] that while it, quote:

*"...cannot provide any guarantee with respect to the Enbridge Montreal Terminal, Enbridge and the shippers have signed 10-year[s] contracts for the Project."*

4763. End quote.

4764. If potential economic benefits of the reversal of Line 9, as presented during the hearings by several intervenors, including Valero, Suncor, and Enbridge, are to be considered as relevant and valid arguments, the Cities Initiative recommends that the NEB ask Enbridge for full transparency relative to any Line B extension planned or considered in the foreseeable future, whether it be from a proprietary or a third-party pipeline conveying the oil towards further terminal points on the eastern seaboard.

4765. We suggest also that any authorization given by the NEB be limited to the timeframes equivalent to Enbridge's written assurance of maintaining

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Montreal as a line terminal for at least the 10 -- the next 10 years, assurances to be renewed accordingly.

4766. Finally, the Cities Initiative asks the NEB to consider, in the evaluation of the project, the fact that the energy-related industries, notably the transport and refining companies and the federal and provincial governments, through taxation and royalties, will receive the major part of economic benefits, while consumers and local governments, such as municipalities or local and regional counties, advantages will be comparatively modest, if present at all.
4767. This point is of particular importance when considering possible negative externalities on the latter groups, including the consequences of any spill or similar event. These justify our previous request for a contingency or liability fund.
4768. With this, I conclude the presentation of our issues, and will now return the floor to Ms. Crawhall.
4769. **MS. CRAWHALL:** An unfortunate incident such as a major spill or explosion along Line 9 would have serious consequences and result in significant costs for the major cities and small towns located along its route, as well as the surrounding ecosystem and sources of drinking water for the majority of the population of Canada.
4770. This major pipeline goes through the most densely populated region in Canada. It also runs along the northern boundary of the largest freshwater system in the world, the Great Lakes and St. Lawrence. It crosses many of their significant tributaries. It's near many environmentally sensitive agricultural and residential areas, private drinking wells, and municipal water supply intakes.
4771. While it is true that Line 9 has been in operation for almost four decades without any serious incident, the new conditions of operation requested by Enbridge -- increased capacity and potentially changing the type of product being transported -- do warrant stringent regulatory scrutiny and the highest standards of spills prevention, preparedness and response, in close collaboration with local first responders.
4772. Madame présidente, Members of the Board, we respectfully request that you seriously consider the recommendations that have been submitted to you by the Cities Initiative.

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4773. And I thank you very much for your time and attention. And Monsieur Chenard and I will gladly answer any of your questions.

4774. **LA PRÉSIDENTE:** Monsieur Gauthier?

4775. **MEMBER GAUTHIER:** Oui, Monsieur Chenard, could we get back on the Issue Number 2, you mentioned that you need an independent review asset. And then -- I'd like, if it's possible that you elaborate and give more details about the scope and the area of this independent review you need.

4776. **MR. CHENARD:** Thank you for the questions.

4777. This request was made following the answers that the company gave us in our -- both our two information requests. And we have to take in the answers that the Enbridge company gave us -- we have to take as a face value any assurances that their monitoring actions and their surveillance of the integrity of the pipeline were deemed sufficient.

4778. We did not decide to elaborate on the theme of the integrity and the structure of the pipeline today because that is well outside our own reach as an organization.

4779. But we thought that given the circumstances, especially of the recent events in Kalamazoo, that it would give, both for the company, and the public interest involved in this review process, an increased level of confidence if the statements made by the company were clarified in any way, even in the sampling process by an authority that would be independent.

4780. And again, this could be either conducted by the NEB or by a third party. But I think the fact is needed that some kind of insurance must be given in order to have full confidence.

4781. **MEMBER GAUTHIER:** But does it mean that your association and your 109 members are not confident with the serious of the studies made by Enbridge and their team?

4782. **MR. CHENARD:** Yeah, Ms. Crawhall can answer that one.

4783. **MS. CRAWHALL:** We have American and Canadian members.

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When Kalamazoo happened, the Mayor of Chicago was hopping mad. He was the one who directed the organization to start looking into spills. In fact, we looked into maritime spills in particular, and we met with the Quebec office and the Ontario office of the Coast Guard.

4784. We were reasonably assured that the Coast Guard was working with local responders, but there was still enormous gaps. With this proposal -- really it is given the experience in Marshall, Michigan that is -- yes, there is a lack of confidence. If we are to look at the NTSB report, it is a fairly damaging critique of what they call a "culture of deviance" at Enbridge.

4785. So if Enbridge is asking for a similar change to the capacity and the nature of the product going through this pipeline, we do need some independent assurance about the integrity of that pipeline.

4786. **MEMBER GAUTHIER:** Thank you.

4787. **THE CHAIRPERSON:** Mr. Richmond?

4788. **MEMBER RICHMOND:** Thank you.

4789. One of your recommendations was related to the need to add additional emergency intervention teams in additional locations along the route, in order to presumably to reduce response times.

4790. Another participant in this hearing made a suggestion -- and I apologize that I can't remember who or the reference number at this -- off the top of my head. But there was a suggestion that Enbridge could essentially co-ops and train some members of local fire departments for example, local first responders and -- I'm paraphrasing, but essentially make them sort of deputies, subcontractors to Enbridge, to give them the training that they could actually respond and learn how to use Enbridge equipment so that you wouldn't need full-time Enbridge staff all the way along the route, you would just have local first responders properly trained so that they could be on call.

4791. How would your members view that suggestion? Is that something they'd be willing to do, and if so, is that something that you think would satisfy or maybe be a good stand-in for your suggestion?

4792. **MS. CRAWHALL:** Mr. Richmond, we'd have to go back to our

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- members to ask -- that's a fairly specific question.
4793. I think the issue really is that fire marshals are the ones who get the call, they are the ones who go to a spill. And the first responders often do not have all the information they need to respond to an incident, whether it's a maritime incident or a land-based incident.
4794. This integration between a company, the Coast Guard and the local responders has to be resolved in this country. There is a gap and each time there's a gap, whatever the incident is, doesn't get -- doesn't get addressed as quickly as it could or as efficiently as it could.
4795. And so it's -- this isn't something specific to Enbridge. It has been experienced in other incidents with other companies and with the Coast Guard, that we need better communication, more training, more information.
4796. You know, I'd have to go back to our members to ask specifically about this recommendation of subcontracting first responders.
4797. **MR. CHENARD:** And just for the record, we did recommend that one additional response be establishing the greater GTA region for all the reason that have been presented by us and previous parties.
4798. When people in Montreal complained about the traffic, I tell them that you haven't been in Toronto.
- (Laughter/Rires)
4799. **MR. CHENARD:** But this being said, I think that what Ms. Crawhall said is pretty accurate.
4800. **MEMBER RICHMOND:** Thank you.
4801. **MEMBER GAUTHIER:** Just last -- one more question.
4802. Did you have the chance -- some chance to meet Enbridge representative to discuss about your concerns and your issues?
4803. **MS. CRAWHALL:** A number of our members have met, the City of Toronto -- I don't know if the City of ---

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4804.           **MR. CHENARD:** City of Montreal.

4805.           **MS. CRAWHALL:** --- the City of Montreal. So we've been in close touch with our members on regular teleconferences to learn more about their discussions. Really the discussions have to occur between the cities who are the first responders and the responsible agents of drinking water.

4806.           But we're in close touch with the members who have been in touch with Enbridge.

4807.           **MEMBER GAUTHIER:** Okay. Thank you.

4808.           **THE CHAIRPERSON:** Just one question of clarification. One of your recommendations is to have another emergency unit, you know, to diminish response time. So we saw that Enbridge is planning to have another unit in Mississauga. Is that responsive or you want more?

4809.           **MR. CHENARD:** No, I think we do acknowledge that input from Enbridge in their last presentation that they consider the location of a new team in Mississauga. I think that's a step in the right direction, so definitely. But like I said, I will ask the NEB to make sure that that commitment is followed on.

4810.           **THE CHAIRPERSON:** So those are all our questions. We thank you very much for your participation.

4811.           **MR. CHENARD:** Thank you.

4812.           **THE CHAIRPERSON:** And I think this brings us to our morning break. So we will reconvene at 11:00 o'clock.

--- Upon recessing at 10:40 a.m./L'audience est suspendue à 10h40

--- Upon resuming at 11:01 a.m./L'audience est reprise à 11h01

4813.           **THE CHAIRPERSON:** Welcome back.

4814.           We will now pursue with Sustainable Trent with Mr. Julian Tennent-Riddell. Good morning.

**--- FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR SUSTAINABLE TRENT:**

4815.           **MR. TENNENT-RIDDELL:** Good morning, Madam Chair and Board Members. Thank you to the National Energy Board for the opportunity to speak here today and to everyone for listening.

4816.           My name is Julian Tennent-Riddell and I'm here to present final oral argument on behalf of Sustainable Trent. We are, as far as I know, the only student organization and the only Peterborough-based organization present at these hearings. I will address the significance of this later in this final argument.

4817.           Sustainable Trent is a levy group at Trent University, meaning we are accountable to all full-time undergraduate students at Trent. I would like to use this opportunity to demonstrate why the Line 9B reversal and Line 9 capacity expansion project, which I will refer to in this argument as Line 9B, goes against the Canadian public interest and why we think the Board should deny approval for the project.

4818.           I would like to address a few key issues today, these being number one, the likelihood of oil spills should Line 9B be approved, and the resulting risk of negative human health and environmental affects; number two, the particular danger involved with transporting tar sand diluted bitumen through pipelines.

4819.           Number three, Line 9's violation of Aboriginal and Treaty rights and the impacts that approval of Line 9B would have on these rights; number four, and this will be fairly brief, the risks which Line 9B poses to Peterborough and surrounding area and to Trent students, and finally number five, the impacts Line 9B would have on our future as young people and as students.

4820.           I will take this moment just to say that when I reference Sustainable Trent's written evidence in this argument I will refer to the Exhibit Number, which is C26-2-1, and a number of the specific article or document being referenced. This is due to the fact that we filed evidence in one document with the numbered list of evidence, which includes electronic links to each article or report.

4821.           I did not request that these be shown on the screen, as we didn't think it would be necessary, but just let me know if you want anything more specific or more time to look through.

4822. So beginning with the likelihood of an oil spill, Line 9 is an old pipeline which is past its expiry date. Many other intervenors have addressed this already. This pipeline is not fit to transport light crude oil at its current capacity let alone larger amounts of a much heavier type of oil, heavy crude, which would require higher temperatures and higher pressure along with more toxic ingredients.

4823. Enbridge emphasis in its final argument, that, I quote, “no new pipe would be installed” as part of this project. This fact is used to argue that Line 9B is a safe low-impact project.

4824. Of course Line 9B is not about building a new pipeline it is about using an old pipeline to transport a whole different type of oil at higher capacity and in a different direction, succinctly phrased in Aamjiwnaang First Nation and Chippewas of the Thames First Nation final argument yesterday as a fundamental commercial repurposing.

4825. This is a high-impact high-risk project. The construction involved in the implementation of Line 9B is not what would cause devastating impacts what could spark a major disaster is the high risk of tar sands oil spills that would threaten the land, water, air, wildlife, and people along and around Line 9.

4826. The risk of a major environmental and human disaster is too great to allow Line 9B to go forward. We have seen countless oil disasters across Canada and the U.S. which constitute major warning signs and demonstrate that the probability of a major oil spill from Line 9 is high. Many of such oil spills have occurred under Enbridge’s watch. Here I would like to quote a report called “Out on the Tar Sands Mainline Mapping Enbridge’s Web of Pipelines - A Corporate Profile Pipeline Company Enbridge”. This is from Sustainable Trent’s written evidence Exhibit C26-2-1, and it’s Document Number 11. And I quote:

*“According to Enbridge’s own data, between 1999 and 2010, across all of the company’s operations there were 804 spills that released 161,475 barrels (approximately 18.95 million litres, or 5 million gallons) of hydrocarbons into the environment.”*

4827. And I believe Grand River Solidarity already mentioned some of that -- some of those facts today.

4828. In light of this track record, it is very difficult to trust Enbridge when it claims that Line 9B is -- and I quote from Enbridge's final argument -- "a project that would redeploy an existing pipeline in a safe, efficient and economical way". End quote.

4829. Oil spills, large and small, do not fit that description whatsoever, therefore, I submit to the Board, on behalf of Sustainable Trent, that it strongly consider Enbridge's history of pipeline accidents, despite regulations which were in place, in its assessment of Line 9B.

4830. Line 9 has its own history of accidents. According to Enbridge's pipeline integrity engineering assessment -- this is Exhibit C26-2-1, Document Number 12, page 16 -- I quote:

*"The Mainline segment of Line 9 from ML to NW has experienced a total of 12 Mainline leaks and one Mainline rupture since initial construction".*

4831. End quote.

4832. And we ask how can we be sure that this unnerving pattern will not repeat itself? How can we justify allowing Enbridge to push this pipeline beyond its limits? And I urge the Board to honestly consider these questions while considering the Line 9B proposal.

4833. It is important to look also at the type of oil spills which could result from Line 9B. The July 2010 Enbridge 6B pipeline rupture provides a particularly disturbing example, which has been referenced by many other intervenors. So I won't go into much detail about it, including in the City of Toronto's final argument.

4834. This pipeline is often referred to as the sister pipeline to Line 9 because of the similarities between the two. Perhaps what is most disturbing about this rupture is that it appears that Enbridge's response to the spill actually exacerbated the problem.

4835. This quote is from a report by the National Transportation Safety Board called "Enbridge Incorporated Hazardous Liquid Pipeline Rupture and Release", Marshall, Michigan, July 25<sup>th</sup>, 2010. And again that's from Sustainable

Trent's written evidence, Document Number 16, and found in the abstract of the article and I quote:

*"The rupture occurred during the last stages of a planned shutdown and was not discovered or addressed for over 17 hours. During the time lapse, Enbridge twice pumped additional oil (81 percent of the total release) into Line[9 -- sorry, Line] 6B --"*

4836. Apologies

*"--- during two startups."*

4837. End quote.

4838. Enbridge employees were not aware that their decision to pump additional oil through the pipe in an attempt to keep the oil flowing was turning a small leak into a massive oil spill and rupture.

4839. I think we can all agree that Enbridge did not want a major spill to happen. This shows that transporting diluted bitumen through pipelines is accident prone and that it is difficult to determine what is happening inside such underground pipelines.

4840. The results of oil spills, such as that which occurred in Marshall, are devastating from an environmental, social, public health and economic perspective. This accident has resulted in continuing costs exceeding \$767 million in clean-up costs. I imagine that everyone in this room could think of many better ways to spend \$767 million.

4841. The clean-up of the Kalamazoo River is continuing today, more than three years later. In terms of health effects, the same report I referenced above states that about 200 people reported symptoms consistent with crude oil exposure. Sustainable Trent's written evidence goes into much more detail about these health effects.

4842. This is where I would like to discuss my second point, on the particular dangers involved in transporting tar sands, diluted bitumen, through pipelines. Clean-up from diluted bitumen spills takes considerably longer than conventional oil spills due to the fact that diluted bitumen sinks within a short

- period of time when it enters the waterway.
4843. In Sustainable Trent’s written evidence, Document Number 8, cites a report which proves this. And I believe that document -- or that report was referenced earlier today.
4844. Despite gaps in the research on the effects of diluted bitumen, the extensive clean-up process of the Kalamazoo speaks volumes about how difficult it is to adequately clean up.
4845. The final arguments of the Algonquin to Adirondack’s Collaborative, highlights many of the dangers associated with transporting diluted bitumen and I believe the Board should take these concerns into account.
4846. There are a few more concerning facts I would like to bring up related to the transport of diluted bitumen found in Sustainable Trent’s written evidence from a blog post by Anthony Smith of the Natural Resources Defence Council called “Tar Sands Pipeline Risks: Examining the Facts”. And that is from Exhibit C26-2-1, number 27 of the document.
4847. The first fact is that pipelines in the U.S. with the longest history moving tar sands diluted bitumen also have the worst spill record.
4848. When assessing whether Line 9 should be allowed to carry diluted bitumen, it is important to look to examples from pipelines which already carry it or have been carrying it for longer periods of time.
4849. Second, and I quote:
- “High temperature tar sands pipelines are at greater risk of leaks.”*
4850. End quote.
4851. And the article explains that this happens because of external corrosion. Line 9 would need to operate at higher temperatures to allow for dilbit, diluted bitumen, to flow through it.
4852. And finally, two final facts; leak detection systems miss 19 out of 20 spills. This is a particularly alarming fact. And the final one is that conventional

spill response methods have proven ineffective for tar sands diluted bitumen spills.

4853. Along with the fact that Line 9 is an old pipeline and its integrity is in question, I urge the Board to strongly consider this evidence in their assessments of Enbridge's Line 9B proposal, and I submit that Line 9 be deemed unsafe to transport diluted bitumen, synthetic bitumen or other derivatives of heavy crude on behalf of Sustainable Trent.
4854. We include the Lac Mégantic crude oil explosion in our written evidence as another warning sign of what could happen if Line 9B was approved. Oil and pipeline companies and their Proponents have been using the disaster to claim that pipelines are safer than railways for transporting diluted bitumen.
4855. Sustainable Trent's evidence and the evidence of others before the Board clearly shows pipelines are not safe for transporting this type of oil and especially outdated pipelines operated with track records such as that of Enbridge.
4856. Lac Mégantic went beyond negative health effects such as nausea and headaches. It resulted in deaths. Whether by rail or by pipeline, the shipment of tar sands heavy crude, particularly through Line 9 we argue, is not in the public interest.
4857. Sustainable Trent urges the National Energy Board to take an approach to its decision on Line 9B based on the precautionary principle. Although research is lacking into connections between tar sands oil spills and detrimental effects on human health, there is plenty of evidence to suggest that people are suffering both short-term and long-term health effects from diluted bitumen oil spills. Some of this evidence from the situation at the Kalamazoo River is found in Sustainable Trent's written evidence.
4858. Degrading effects on the natural environment, waterways, land, air and wildlife, as a result of tar sands oil spills, are well known and well documented. Human health effects are more difficult to prove since they are influenced by many factors and manifest themselves over long periods of time, and we acknowledge this. But we argue that without scientific proof that when spilled diluted bitumen does not affect human health, Line 9B should not be approved, given the high likelihood of a spill on Line 9. To allow such a risk -- detrimental risk to public health is, we argue, not in the public interest.

4859. And here I would like to reference Dr. Nicole Goodman's request that the NEB require an environmental assessment -- a robust environmental assessment of Line 9B.
4860. And Sustainable Trent remains opposed to the project so we are not suggesting this as a condition for approval but rather a requirement.
4861. Now, I would like to turn to my point about Aboriginal and Treaty rights and the National Energy Board's duty to ensure that meaningful consultation and accommodation have occurred between the Crown and First Nations before approval of Line 9B.
4862. Although Sustainable Trent's written evidence does not focus on Aboriginal and Treaty rights, the violation of these rights is the first and foremost reason we have for opposing Line 9B.
4863. Sustainable Trent aims to stand in solidarity with First Nations and indigenous peoples who have not been properly consulted and who are saying that Line 9B and Line 9 itself violates their Aboriginal and Treaty rights.
4864. As stated in Aamjiwnaang First Nation's written statement of evidence, which is Exhibit C1-6-1.7, I quote:
- "Line 9 was built without consulting us [...] construction and operation of Line 9 constitutes an ongoing infringement of our Aboriginal and treaty rights."*
4865. End quote.
4866. Given the fact that Line 9, in its current state, is already in violation of Section 35 of Canada's Constitution of 1982, which is the highest and supreme level of Canadian law, approval of Line 9B appears irresponsible. Aboriginal rights should be honoured before any discussion of approving Line 9B takes place. Line 9B would exacerbate infringements on these rights.
4867. And as you can tell, many of these ideas and arguments here are coming from the arguments of Aamjiwnaang First Nation and Chippewa's of the Thames First Nation, and here Sustainable Trent would like to adopt and fully endorse the final arguments of AFN and COTTFN, and we submit that the Board give extra weight to their evidence and arguments.

4868. Sustainable Trent fully supports their assertion that approval of Line 9B by the National Energy Board would be an error of law, given that the Crown has not fulfilled its duty to consult and accommodate First Nations, whose territories are located on and around Line 9. Aboriginal and Treaty rights must be respected before any approval of Line 9 can be contemplated.

4869. I submit that this issue is outside the scope of the National Energy Board's authority. It is bigger than the Board, it's bigger than Enbridge, and it is also not in -- clearly, not in the interests of Aboriginal peoples, nor is it in the interest -- the public interest of Canadians, given that an ongoing relationship of Treaty violations is not good for either side or either group, and this is the view of Sustainable Trent.

4870. And now, in terms of the particular effects that an oil spill or rupture could have on Peterborough, Trent University, and the surrounding area, Sustainable Trent's evidence does not address this directly. We are -- although, we did bring this up in our application to participate. We are located within 50 kilometres of Line 9 and our waterways and air could be adversely affected.

4871. Much of the air pollution from Toronto travels to Peterborough and because Peterborough is located in the valley, it settles more so than it would in other areas. And an oil spill on Line 9 would bring much worse toxins than car exhaust. Peterborough is an area of farmland, rivers, and lakes, and I would also like to acknowledge that it is the territory of the Mississauga Anishnaabe and Haudenosaunee.

4872. I would now like to address the final point, which is the potential impact of Line 9B on youth and students. Sustainable Trent is a volunteer-run student organization. The majority of our members and of Trent students are young people. The core members, included in -- as represented by Sustainable Trent in our application, include undergraduate students, master students, and PhD students. Trent students study in Peterborough, but many of their hometowns and families are located even more directly on Line 9 than Peterborough, including my own.

4873. It is extremely important for youth to have a voice at these hearings because it is our future that is at stake here. It is our future that is being debated. Enbridge and Proponents of Line 9B seek to prove that this project will benefit us through economic growth.

4874.           However, Line 9B puts our future well-being at risk. We will inherit and are already inheriting the world left behind by Enbridge's legacy; oil spills, environmental destruction, pollution of waterways, ongoing violations of Aboriginal rights, negative effects on human health. We cannot afford for these to be a part of our present and future reality.
4875.           There are plenty of alternatives to an economy based on extracting resources from indigenous territories without consent and shipping them across the country and the world through whatever means possible. We need to put our energy, times and -- time and resources into those alternatives, not to projects such as Line 9B.
4876.           I urge the Board to consider the voices of students and youth represented here through Sustainable Trent who are opposing Line 9B, and also those who are unable to be represented here today.
4877.           Here, I want to make a reference to a letter of comment submitted to the Board from a group of youth in Peterborough called "Youth 4 Global Change". This is found in Filing Number A53303. I know these youth personally, I have worked with them, and I've seen them devote many hours of their time to becoming aware of Line 9B and the issues surrounding it, and further educating their community on why we should be concerned about this pipeline project.
4878.           As they state so well in their letter, I quote:
- "Line 9 runs through 18 different Indigenous communities and they have not given free, prior and informed consent. If this reversal takes place it is in violation of their rights and we do not think the NEB should privilege corporate rights over human rights."*
4879.           Sustainable Trent supports and adopts this letter of comment as part of our final argument.
4880.           I can attest, as Youth 4 Global Change does so eloquently, that Line 9B is not in the interest of these youth and their future. They know this themselves and they know why, as is clear from their letter. I urge the National Energy Board to strongly consider this youth group's letter of comment. Youth

- group -- youth voices have been marginalized in this process, and it takes a lot of courage as a teenager to dedicate time to trying to make the world a better place.
4881. Now, I would just like to note that this final section of my -- of Sustainable Trent's argument here is kind of related to moral issues, you might call it, rather than legal, or policy or evidentiary issues. However, I believe that this type of discussion and this type of testimony is very important, especially given that the NEB has a mandate to act in the Canadian public interest, as many have brought up at these hearings so far.
4882. This encompasses issues around values and morality. Obviously people have different perspectives on what the Canadian public interest is, but I think it's important to address.
4883. And just to close, I would like to just comment on one thing, which is the many, many different groups here have presented very well thought out and excellent conditions for approval of Line 9B and Sustainable Trent respects these. They're all very -- very useful and very important.
4884. For example, the City of Toronto, the Algonquin to Adirondacks Collaborative, these conditions are very important. But we are hesitant to sort of full out endorse them just because we remain opposed to the project itself. So we do not want endorse conditions for approval because that would suggest we would endorse approval itself.
4885. And finally, just a note on the process itself, of the NEB; I think it's important to recognize that the process has a large impact on the outcome and that this particular hearing was very difficult to access for many people, especially those without the privilege of having the time and the resources and the knowledge to be here. I mean it was difficult for our student organization to pull this together, all on unpaid volunteer time.
4886. And you know, we've spoken with many residents in Peterborough who are very concerned and Trent students who are very concerned about Line 9B, and they wished they could be here to comment. But of course they're not able to because they -- for whatever reason they could not submit an application. So I just -- I urge the Board to consider some of these factors in their assessment of Line 9B.

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4887. And I now wish to close by, again, thanking you for your time and for listening to the final arguments of Sustainable Trent. And I do not make these statements lightly and do so in the spirit of a more just, healthy and sustainable future.

4888. So thank you very much. If you have any questions, let me know.

--- (Applause/Applaudissements)

4889. **THE CHAIRPERSON:** We have no question but I want to take a minute to thank you on behalf of the Panel. We appreciate hearing from the youth and especially when you have youth taking time to -- investing time in getting involved in our process.

4890. So we thank you very much.

4891. **MR. TENNENT-RIDDELL:** Thank you.

4892. **THE CHAIRPERSON:** Now we'll hear from the Ontario Ministry of Energy.

4893. Mr. Rick Jennings?

--- (A short pause/Courte pause)

**--- FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR ONTARIO  
MINISTRY OF ENERGY:**

4894. **MR. JENNINGS:** Okay, thank you. Good morning, Madam Chair and Members of the Hearing Panel.

4895. My name is Rick Jennings; I am the Assistant Deputy Minister, Energy Supply, Transmission and Distribution Policy of the Ontario Ministry of Energy. I will be providing a final argument in this proceeding on behalf of the Minister of Energy and the Government of Ontario.

4896. Madam Chair, Ontario recognizes that Enbridge's Line 9 is a federally regulated undertaking. The National Energy Board is the regulator with the responsibility for ensuring the safe operation of Line 9, including the safe operation of the proposed project, if approved. The safe operation of Line 9 is a

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vital concern for the Government of Ontario and the people of our province.

4897. Consistently with Board practice, I have provided a copy of Ontario's argument to the court reporters and interpreters. That copy includes sections, headings, transcript and exhibit references. I will not repeat those references, but request their inclusion in the transcript.
4898. I would also like to preface my remarks with one caveat where Ontario has not addressed a particular issue raised or position taken by the Applicant, their supporters or any other interested party. This should not be construed as acceptance of or support for those particular positions.
4899. The primary purpose of the proposed project is to transport crude oil produced in western Canadian provinces and the United States, for use in refineries located in the Province of Quebec.
4900. If the project is approved, Line 9 will carry crude oil from Western Canada across most of Southern Ontario and to our eastern border with Quebec. A large leak or rupture on the line could have significant consequences to Ontario's environment, our people and our economy.
4901. So we believe that the safety of the proposed project and the integrity of Line 9 is the paramount concern in this proceeding. For this reason, we generally support the draft potential conditions released by the National Energy Board on September 30<sup>th</sup>.
4902. Ontario's assessment of the proposed project has been informed by the following six principles. Pipelines must meet the highest available technical standards for public safety and environmental protection. Pipelines must have world-leading contingency planning and emergency response programs. Proponents and governments must fulfill their duty to consult obligations with Aboriginal communities. Local communities must be consulted. Projects should provide demonstrable economic benefits and opportunities to the people of Ontario, over both the short and long-term.
4903. Economic and environmental risks and responsibilities, including remediation, should be borne exclusively by the pipeline companies, who must also provide financial insurance, demonstrating their capability to respond to leaks and spills.

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4904. Madam Chair, based on our application of these six principles, Ontario believes that additional efforts by Enbridge and further information are required before this Board can be satisfied that the proposed project should be approved.
4905. While the province recognizes the vital role pipelines play in our energy system, Ontario's review of the record of the proceeding has identified areas related to pipeline safety, financial assurance, environmental impacts, contingency planning, emergency response and public awareness of the pipeline where further efforts could be undertaken.
4906. In some cases, Ontario will propose terms and conditions above and beyond the National Energy Board's draft potential conditions released on September 30<sup>th</sup>, that Ontario believes are essential to any approval of the project.
4907. Our final argument will address each of the issues established by the Board for this proceeding and it is to those issues I now turn.
4908. Issue one, the need for the proposed project. Ontario acknowledges that the need for the project has been adequately demonstrated and that the project is likely to have commercial and economic benefits.
4909. Crude oil pipelines exist to transport crude oil from areas of production to petroleum refineries. As noted by Enbridge in its evidence, the purpose of the project is to respond to requests from Eastern Canadian refineries to have access to the growing and less expensive supplies of crude oil production from Western Canada and the U.S. Bakken region. *[B1-2, Line 9B Reversal and Line 9 Capacity Expansion Application, (Section 1.2), Adobe page 18, Paper page 18, Lines 31-33]*
4910. Ontario believes that the need for the project is demonstrated by the long-term contracts that backstops Enbridge's proposal. *[B1-2, Line 9B Reversal and Line 9 Capacity Expansion Application, (Section 3.1), Adobe page 24, Paper page 24, Lines 5-11]* In Ontario's view, these long-term contracts should be given significant weight by the Board as they demonstrate both the commercial interest in and commercial viability of the project.
4911. Enbridge expects that the re-reversed Line 9B will serve the two refineries located in Quebec. *[B1-2, Enbridge Line 9B Reversal and Line 9 Capacity Expansion Application, (Section 12.3), Adobe page 51, Paper page 51, Lines 31-32]*

4912. Valero, which operates a refinery in Quebec City, stated in its evidence that:

*“Valero believes that this project will allow its Lévis refinery to remain competitive versus the Atlantic Basin refineries that rely on higher-priced imports.” [C34-2-2, Valero Evidence, Adobe page 3, Paper page 2, line 12]*

4913. Similarly, Suncor, which operates a refinery in Montreal, stated in its evidence that the project will enable it to economically replace foreign crude oil supply with supply source from Western Canada and the U.S. Bakken region. [C32-2-2, Suncor Evidence, Adobe page 2, Paper page 1, lines 28-30]

4914. Ontario believes that the evidence from the petroleum refiners related to project needs should be given significant weight by the Board. By the nature of their business, petroleum refineries have an excellent understanding of the crude oil market.

4915. Moreover, the view from the refiners that the project will have economic benefits for them is backstopped by a financial commitment.

4916. As noted by Suncor, its analysis that the re-reversal of Line 9 would provide lower crude oil costs lead to the company's decision to incur the costs associated with a long-term commitment to ship on a re-reversed Line 9.

4917. Due to the financial commitment the refiners have made, Ontario submits that their evidence on project need and project benefits has significant credibility.

4918. The history of refinery closures demonstrates the competitive challenges faced by refineries in Ontario, Quebec and Atlantic Canada. The Petro-Canada refinery in Oakville closed in 2005, [C32-2-2, Suncor Evidence, Adobe page 5, Paper page 4, lines 19-22], the Shell refinery in Montreal closed in 2010, [C9-5-2, Revised Evidence of CEP, Adobe page 4, paragraph 16] and the Imperial Oil refinery in Dartmouth closed in 2013 [C34-2-4, IHS Evidence, Adobe page 15, paper page 15, lines 22-23].

4919. The fact that the two remaining Quebec refiners are operating today provides no assurance of their long-term viability.

4920. Improving the viability and competitiveness of Quebec refiners is important to Ontario because Quebec refineries supply petroleum products to Ontario. This has especially been the case since 2005 when the supply loss due to the Petro-Canada Oakville refinery closure was replaced by imports from Quebec. *[C9-5-2, Revised Evidence of CEP, Adobe page 4, paragraph 16]*
4921. Initiatives that lower crude oil costs to refineries are important to refinery viability. Ontario agrees with Suncor's evidence the Eastern Canadian refined product market is very competitive. Refiners in that market must be allowed to safely and reliably access alternative crude supply options to remain viable and competitive with other refiners that have access to the same sources of supply or which may be expected to secure such supplies in the future. *[C32-2-2, Suncor Evidence, Adobe page 2, paper page 1, lines 31-34]*
4922. The proposed project has transportation costs well below alternatives. For example, supplying Quebec refineries with Western Canadian crude oil by rail has an estimated cost of 13 to \$16 a barrel, *[C34-2-4, IHS Evidence, Adobe page 29, paper page 29, lines 27-30]* significantly above the estimated cost of the re-reversed Line 9 from Edmonton to Montreal of \$5.22 a barrel. *[C34-2-4, IHS Evidence, Adobe page 27, paper page 27, line 20]*
4923. In Ontario's view, the project would improve the competitiveness and viability of Quebec's two remaining refineries and therefore provide energy, security and supply reliability benefits to Ontario.
4924. Issue two, the commercial impacts of the proposed project. Ontario notes that the project, if approved, would have economic benefits to the province due to the construction activity that will take place in Ontario. Direct and indirect job creation and the preservation of provincial and municipal tax revenue.
4925. Enbridge's original filed evidence is that the project would entail 122 million in construction spending *[B11-2, Enbridge response to NEB IR No 2, IR 2.1a) Adobe page 1, paper page 1]* with initial capital and operations expenditures allocated 60 percent to Ontario. *[B11-2, Enbridge response to NEB IR No 2, IR 2.1c]*
4926. Enbridge's reply evidence noted that the capital costs to execute the project is now estimated to be \$170 million. *[B43-2, Enbridge Reply Evidence, Adobe page 13, Paper page 13, paragraph 61]*

4927. Enbridge estimates that over 30 years, 59.3 percent of the direct and indirect employment increase of 5,500 person years associated with the project would incur -- would occur in Ontario, and that 61.6 percent of the 350 million in direct and indirect labour income would be earned in Ontario. *[B11-2, Enbridge response to NEB IR No 2, IR 2.1c) Adobe page 3, Paper page 3]*
4928. Enbridge notes that the idling of Line 9B which will occur if the project is not approved will result in less provincial taxes payable. *[B20, Enbridge Response to Ontario IR No 1, IR 1.53c), Adobe page 96-97, Paper page 96-97]* Also, Enbridge paid over \$5 million in municipal taxes to Ontario municipalities along the Line 9B route in 2012 *[B22-29, Attachment 1 to Enbridge response Ontario IR 1.53, Adobe page 1, Paper page 1]* and observes that these taxes will be payable so long as Line 9B is not abandoned. *[B20, Enbridge response to Ontario IR No. 1, IR 1.53b), Adobe page 96, Paper page 96]*
4929. Ontario's view is that approving the project will eliminate the risk of abandonment for at least the 10 years contracted by shippers and likely much longer, thereby preserving the municipal tax revenue Line 9B generates.
4930. Issue three, the appropriateness of the proposed rules and regulation tariff and tolling methodology. Madam Chair, we have no submissions on the issue three.
4931. Issue four, the potential environmental and socio-economic effects of the proposed project, including the potential effects of malfunctions or accidents that may occur and any cumulative environmental effects that are likely to result in the proposed project.
4932. Madam Chair, the potential consequences of a large spill from an oil pipeline are, regrettably well-known and have been demonstrated by the 2010 experience in Marshall, Michigan. It is clear that large spills from pipelines have significant cumulative and adverse consequences for the environment, human health and the economy.
4933. Ontario's position is that Line 9 must meet the highest available technical standards for public safety and environmental protection. We cannot have a repeat in Ontario of the spill that occurred in Marshall, Michigan only three years ago.

4934. Issue five, the engineering design and integrity of the proposed project. Madam Chair, as we have explained, the safety of the proposed project and thus the integrity of Line 9, is the paramount concern for Ontario in this proceeding. For that reason we support the draft potential conditions the National Energy Board proposed in Appendix II of its Procedural Update Number 4 issued on September 30<sup>th</sup>.

4935. However, we submit that further information is needed so that this Board can adequately assess the proposed project. We have two additional conditions to propose related to Issue 5.

4936. Before discussing our proposed conditions, Ontario would like to highlight two key factors about Line 9 that informed our analysis. The first factor is the polyethylene tape coating used on Line 9 and the second is the significant operational changes proposed for the project.

4937. Madam Chair, Ontario understands that there are identified safety issues related to the polyethylene tape coating used on Line 9, which is a reason to proceed cautiously. For instance, investigators of the 2010 Marshall, Michigan spill in Enbridge Line 6B:

*“...determined that the cause of the rupture was cracks that had formed in a corrosion pit on the outside of the pipe under a dis-bonded polyethylene tape coating.” [B25-5, Attachment 1 to Mississauga 1.11a), National Academy of Sciences, Special Report 311: Effects of Diluted Bitumen on Crude Oil Transmission Pipelines, Adobe page 61, Paper page 44]*  
*Similarly in the investigation of a 2007 rupture, Transportation Safety Board investigators determined that the Polyethylene tape coating had tented over the weld shielding the pipe from the beneficial effects of the cathodic protection current. The corrosion pit that developed because of the tape failure became a stress concentration site where cracks formed and grew. [B25-5, Attachment 1 to Mississauga 1.11a), National Academy of Sciences, Special Report 311: Effects of Diluted Bitumen on Crude Oil Transmission Pipelines, Adobe page 61, Paper page 44]*

4938. The known issues with coating used on Line 9 warrant that the

National Energy Board take a cautious approach in reviewing the project and that it impose appropriate conditions if the project is approved.

4939. The operational changes proposed by the project include the re-reversal of crude oil flow, tariff revisions to allow for heavy crude oil deliveries, expansion of average annual daily capacities from 240,000 barrels per day to 300,000 barrels per day *[B1-2, Enbridge Line 9B Reversal and Line 9 Capacity Expansion Application (Section 1.1), Adobe page 18, Paper page 18, Lines 8-21]* and expectations that Line 9 will be operating at or near capacity for the foreseeable future. *[B1-2, Enbridge Line 9B Reversal and Line 9 Capacity Expansion Application (Section 12.2.2), Adobe page 51, Paper page 51, Lines 27-29]*
4940. This high utilization rate is a significant change from the low utilization rate on Line 9B from 2009 to 2011, *[B1-2, Enbridge Line 9B Reversal and Line 9 Capacity Expansion Application (Section 3.2), Adobe page 26, Paper page 26, Lines 7-9]* and the expected utilization rate of the re-reversed Line 9A which absent the current application would be expected to have an average daily volume of only 50,000 barrels a day. *[A2KV3K2, Letter Decision OH-005-2011 Enbridge Line 9 Reversal (Phase 1) Application, page 3]*
4941. With these significant proposed operational changes, Ontario submits that a cautious approach by the Board in considering approval of the project is required.
4942. Third party review of Enbridge pipeline engineering assessment *[B1-15, Attachment 7, Pipeline Engineering Assessment]* and pipeline risk assessment.
4943. Madam Chair, in our submission an independent third-party review of the Enbridge pipeline engineering assessment, *[B1-15, Attachment 7, Pipeline Engineering Assessment]* and the related pipeline risk assessment *[B1-17, Attachment 8, Pipeline Engineering Assessment]* should be undertaken. The engineering assessment and the risk assessment filed in this proceeding were prepared, we understand for Enbridge by the Pipeline Integrity Department of Enbridge. *[B1-15, Attachment 7, Pipeline Engineering Assessment, Section 2.3, Adobe page 12, Paper page 12, Line 27]*
4944. Our position that a condition should be added requiring a third-party review also applies to the updated engineering assessment that the Board has requested in its Draft Potential Condition Number 9. *[A47-7, Appendix II: Draft*

*Potential Conditions OH-002-2013, Condition 6, Adobe page 2, Paper page 2]*

4945. Madam Chair, Line 9 was put into service in 1976, so it is already 37 years old. Enbridge proposes that the newly reversed and expanded line will be in service for 30 more years which could take it out to the year 2044, and perhaps beyond.
4946. Given the age of the pipeline, its location in a large part of Southern Ontario, its additional service life of 30 years or more, and the potential adverse consequences of a rupture, it seems a simple matter of prudence to ensure that the engineering assessment and the risk assessment are as thorough, comprehensive and accurate as possible. In our view an independent third-party review is required for that assurance.
4947. A third-party review of the engineering assessment and risk assessment would be prudent with respect to this recommendation, I would note the following. First, Enbridge filed a revised pipeline risk assessment [*B21-2, Revised Pipeline Risk Assessment*] and acknowledge that the description of the consequence model in Appendix 1 of the pipeline risk assessment was incorrect as it described a model that is no longer employed by Enbridge and was not employed in the preparation of the pipeline risk assessment. [*B21-2 Revised Pipeline Risk Assessment*]
4948. Second, Enbridge advised that the pipeline risk assessment erroneously used 300,000 barrels per day as a design capacity for Line 9 with the project, rather than 52,994 cubic metres per day which is 333,333 barrels per day. [*B21-1, Letter to NEB re: Update to Application and information Request Responses, Adobe page 1, Paper page 1*]
4949. As a result of erroneously using 300,000 barrels per day, the potential volumes released in an accident in the assessed risk were understated in the pipeline risk assessment.
4950. The engineering assessment and risk assessment initially filed in this proceeding concluded that the increase in Line 9 capacity results in a minor increase in assessed risk for .9 percent of the pipeline. [*B1-15, Attachment 7, Pipeline Engineering Assessment, Section 3.4.5, Adobe page 21, Paper page 21, lines 20-21*]
4951. But in the revised pipeline risk assessment Enbridge advises that the

increase in capacity will result in an increased risk to 2.2 percent of the line.  
*[B21-1, Letter to NEB re: Update to Application and information Request Responses, Adobe page 2, Paper page 2]*

4952. In a related impact, the potential volume out from a rupture increased from 47 cubic metres to 95.2 cubic metres. *[B21-1, Letter to NEB re: Update to Application and information Request Responses, Adobe page 2, Paper page 2]* The fact that revisions to assessed risk and to rupture impacts were necessary during the course of the hearing highlights the need for a third-party engineering review.
4953. In our view, the engineering assessment and risk assessment, including the updated engineering assessment required by the Board's Draft Potential Condition 9 must undergo a thorough review by an independent third-party with appropriate expertise and the results of that view should be taken into account by this Board before it decides whether or not to approve the proposed project. We submit that additional prudence is required here.
4954. In the information request for this proceeding, Ontario asked Enbridge to agree to an independent third-party review. *[B20, Enbridge Response to Ontario Ministry of Energy IR No. 1, IR 1.3c), Adobe page 5, Paper page 5]* Enbridge responded that it currently has no plans for a third party review. Thus, we now request that the Board order Enbridge to take the steps necessary so that an independent third-party conducts a review of the engineering assessment and pipeline risk assessment and that the results of the review be filed by the Board -- to the Board.
4955. Hydrostatic test: Madam Chair, in our submission, the Board should also impose a condition requiring that a hydrostatic test be conducted on the entire Line 9 prior to project approval and the results of the test should be taken into account by the Board in deciding whether or not to approve the proposed project.
4956. The National Energy Board has proposed draft condition -- Potential Condition 11, requiring Enbridge to file its hydrostatic pressure testing program with the Board. *[A47-7, Appendix II: Draft Potential Conditions OH-002-2013, Condition 11, Adobe page 3, Paper page 3]* While this draft potential condition, responds to the lack of information about Enbridge's hydrostatic testing program available on the record, Ontario submits that the Board's draft potential condition does not go far enough.

4957. No leak or rupture is acceptable to Ontario and every effort must be made to ensure that the highest level in environmental protection is achieved. The goal of zero releases is reasonable, and in fact, matches Enbridge's objective for all of its pipelines as identified in its 2012 Corporate Social Responsibility Report. *[C21-7-14, Attachment to OPLA Evidence, Enbridge 2012 Corporate Social Responsibility Report, Adobe page 50, Paper page 46]*
4958. Fulfilling the objective of zero releases requires making every reasonable effort to ensure pipeline safety. One way to assess structural integrity on a pipeline is to conduct the hydrostatic test.
4959. Line 9B has had two hydrostatic tests, one prior to being placed into service in 1976 and the second prior to the decision to reverse Line 9 in 1997. *[B20, Enbridge Response to Ontario IR No. 1, IR No 1.14a), Adobe page 22, Paper page 22]*
4960. Enbridge also acknowledges that when a pipeline has been inactive for more than 12 months, as occurred on Line 9 in 1997, Canadian Pipeline Standards require that a hydrostatic test be conducted to re-establish the maximum operating pressure of a pipeline. *[B20, Enbridge Response to Ontario IR No. 1, IR No 1.14a), Adobe page 22, Paper page 22]*
4961. In Ontario's view, re-establishing the maximum operating pressure of the entire Line 9A, via hydrostatic test, should be required prior to approving the Line 9B reversal and Line 9 capacity expansion project, whether or not Line 9 will be inactive for more than 12 months.
4962. The benefits of conducting a hydrostatic test were noted by the Board in its OH-2-97 decision for the Line 9 reversal, when it summarized the Applicant's evidence by stating:
- "In IPL's view, the results of the hydrostatic tests confirm the structural integrity of the pipelines for the Line 9 reversal project." [OH-2-97, Reasons for Decision, Interprovincial Pipe Line, Section 3.3.1, Adobe page 33, Paper page 17]*  
*[Transcript, Volume 1, paragraph 368]*
4963. IPL refers to Interprovincial Pipe Line which was Enbridge's corporate name at the time of the 1997 Line 9 reversal application.

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4964. Ontario has reviewed Enbridge's argument in-chief in this proceeding and notes that Enbridge's position in the current application is that the hydrostatic test is not required for Line 9. *[Transcript, Volume 1, paragraph 368]*
4965. In current circumstances, given the significant operational changes proposed by the project and the potential consequences of a rupture, it is critical to confirm the structural integrity of the entire Line 9 prior to deciding whether to approve the project. And if the project is approved, we request that the Board establish intervals for future hydrostatic tests.
4966. For the reasons we have explained, Madam Chair, Ontario believes that an independent third-party review of the engineering assessment and risk assessment filed by Enbridge in this proceeding is required. And in addition, we believe that a hydrostatic test should be conducted prior to deciding whether to approve the project.
4967. Issue six, the safety security and contingency planning associated with the construction and operation of the proposed project, including emergency response planning and third-party damage prevention.
4968. Madam Chair, as we have said, pipelines must meet the highest available technical standards for public safety and environmental protection and we fervently hope and expect that no spill from Line 9 occurs. However, if a spill does occur we require that Enbridge bear the full financial responsibility for clean-up efforts and related costs and damages.
4969. It is unfair for our communities, our municipalities, our businesses and our people to bear the cost of a spill on Line 9. This is entirely an Enbridge responsibility.
4970. In Ontario IR 1.4, we asked a series of questions to confirm Enbridge's assumption of full responsibility. Enbridge confirmed its responsibility by stating as follows:

*"Pursuant to section 75 in the National Energy Board Act pipeline companies such as Enbridge shall make full compensation for all damage sustained as a result of the operation of the pipeline.*

*There are no limits placed on liability, prevention, remediation*

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*and clean-up of oil spills. Nor is there any limitation placed on liability for damages to persons, property and the environment.” [B20- Enbridge Response to Ontario IR No. 1, IR 1.4 Adobe page 7, paper page 7]*

4971. Further in Ontario IR 2.1, Enbridge confirmed that it was responsible for damages that are directly attributable to its operations which may include compensation for costs incurred by municipal and provincial first responders. *[B38-3-2, Enbridge Response to Ontario IR No. 2, IR 2.1 Adobe page 1, Paper page 1]*
4972. Madam Chair, it is critical that the company have the legal responsibility for spills. It is also critical that the company have the financial resources to discharge its legal responsibility.
4973. It is to the issue of financial resources that I now turn. Madam Chair, Enbridge must have adequate financial resources to clean up and compensate parties in the event of a worst case spill or rupture. Given the consequences of the 2010 spill on Line 6B in Michigan, Ontario proposes that Enbridge must have a minimum of U.S. -- of \$1 billion U.S. in insurance coverage in the event of an accident.
4974. The evidence reveals that Enbridge’s current insurance coverage is \$685 million U.S. *[B18-2, Response to NEB IR No. 3, IR 3.7 a-b, Adobe page 21, Paper page 21]* and indicates it has committed bank lines presently totalling \$300 million U.S., *[B41-2, Enbridge Response to NEB IR No. 4, IR 4.1e), Adobe page 3, Paper page 3]* which is below the current estimated cost of the \$1 billion to clean up the spill in Michigan and those costs may continue to increase as the clean-up is still ongoing. *[C13-6-12, Attachment E to Equiterre, TGG Evidence, Adobe pages 40-41, Paper pages 40-41]*
4975. The adequacy of Enbridge’s financial resources to clean up and compensate parties in the event of a large spill or rupture is critical given the high density urban centers to which the pipeline runs and the potential for significant clean-up costs.
4976. Accordingly, Ontario requests that a comprehensive financial assurance plan be developed by the Board, including at least \$1 billion U.S. in insurance. This plan should be included as a condition in any approval of the project.

4977. Ontario also requests that the financial assurance plan be reviewed by the Board every five years and modified as required to ensure that the plan remains adequate, taking into account inflation and other factors.
4978. The National Energy Board has ordered a third-party audit to examine Enbridge's management system and the human factors associated with control room operations and the safety culture of the organization as a whole. [C21-9-2, Attachment 26 to OPLA Evidence, NEB Assessment of Enbridge Edmonton Control Room, Adobe page 11, Paper page 10, 4<sup>th</sup> paragraph]
4979. Ontario fully supports this initiative by the Board. All three factors of the audit are vital components of safe pipeline operations.
4980. As noted by the Board, the actions at the Enbridge control centre, were a significant factor in the 2010 rupture and spill from Line 6B in Michigan.
4981. Regarding this incident, the Board said:
- “The Enbridge control centre, located in Edmonton, Alberta, received a series of alarms and observed [...] unusual pressure drop during the shutdown phase. Enbridge incorrectly attributed the alarms to column separation. Over the course of the next 17 hours, Enbridge repeatedly misinterpreted a series of alarms, did not follow approved procedures, and attempted to re-start the line twice while still unaware of the rupture.”*  
[C21-9-2, Attachment 26 to OPLA Evidence, NEB Assessment of Enbridge Edmonton Control Room, Adobe page 4, Paper page 3, 2<sup>nd</sup> paragraph]
4982. Due to the importance of control centre operations, Ontario fully supports the Board's Draft Potential Condition Number 12 that requires Enbridge to demonstrate compliance with the relevant conclusions and outcomes of the Compliance Verification Report related to the Edmonton control room inspection. [A47-7, Appendix II: Draft Potential Conditions OH-002-2013, Condition 12, Adobe page 4, Paper page 4]
4983. Emergency response planning, improved coordination between first responders and Enbridge is required.

4984. Madam Chair, Ontario submits that Enbridge's emergency response planning can be and must be improved. Better coordination with the municipal and provincial responders is needed. Better coordination will improve response times, enhance the development of a culture of safety and transparency and better protect our environment and human health.
4985. In responding to Ontario's first information request, Enbridge advised their response times generally ranged from 1.5 to 4 hours. *[B20, Enbridge Response to Ontario IR No. 1, IR 1.45a), Adobe page 79, Paper page 79]* Ontario submits that these response times must be reduced. We would encourage that continuous improvement of these response times be included as a part of the emergency response plan.
4986. We are pleased to see that in response to NEB IR 4.9, Enbridge advises that it will be establishing a pipeline maintenance work crew in Mississauga, commencing the third quarter of 2014, and that this will improve Enbridge's response time to a pipeline incident in the GTA. *[B41-2, Enbridge Response to NEB IR No 4, IR 4.9, Adobe page 29, Paper page 29]* This is a welcome development.
4987. Ontario notes the concerns expressed by the Ontario municipal intervenors and commenters regarding the need for better coordination between Enbridge emergency response crews and municipal first responders. No less than seven municipalities provided evidence suggesting that improved coordination with first responders is required. Many of the municipal concerns were helpfully summarized by the Board in NEB IR 4.9 to Enbridge. *[A39-1, NEB Information Request No. 4 to Enbridge, IR 4.9, Adobe page 12-14, Paper page 10-12]*
4988. The municipalities requested that Enbridge conduct emergency response training with the municipal first responders and provide first responders with up to date and detailed information about the pipeline.
4989. A good example of the additional information requested by municipalities is set out in paragraph 19 of the City of Toronto's evidence which requested, among other elements, more detailed mapping, the location of control valves, specific written procedures for the city, availability of Enbridge resources and details regarding the deployable resources such as spill control equipment. *[C40-7-2, Toronto Written Evidence, paragraph 19, Adobe pages 4-5, Paper pages 4-5]*

4990. Some of our evidence regarding the lack of information from Enbridge was provided by the Toronto Region Conservation Authority which expressed concern that:

*“Mitigation assumes [the downstream -- assumes] responders will know when and how to access the downstream spill location; modelling has not been completed and access points have not been mapped.” [C39-4-1, TRCA Written Evidence, paragraph 109, Adobe page 23, Paper page 23]*

4991. In Ontario’s view, the points made by the municipalities and the Conservation Authority are sound and we recommend that the Board give their evidence its fullest consideration.

4992. We note that in its reply evidence, Enbridge discussed a two-day emergency response exercise to be conducted on the Grand River with municipalities, fire and police, Conservation Authorities, First Nation and provincial officials. *[B43-2, Reply Evidence of Enbridge, Adobe pages 7-8, Paper page 7-8, paragraph 25-28]* This too, is a welcome development. It will enhance coordination for emergency response. In our view, such exercises should be conducted by Enbridge on an annual basis within all interested Ontario municipalities.

4993. The Great Lakes and protecting drinking water.

4994. Madam Chair, Ontario is particularly concerned to ensure that planning and emergency response affectively protect the Great Lakes, which are an important drinking water sources for many communities along Line 9 and millions of people.

4995. The preamble to Ontario IR 1.46 describes the process under *Ontario’s Clean Water Act* to protect drinking water, including the important work of our source protection committees. *[B20, Enbridge Response to Ontario IR No. 1, IR 1-46, Adobe page 82, Paper page 82]*

4996. Pipelines have been identified as a potential concern with respect to local drinking water sources in five source protection regions. Municipalities and source protection authorities have both cited the need for coordinated emergency response planning in consultation with the municipalities and local source protection authorities to protect their drinking water supplies.

4997. For example, the City of Hamilton observes in their letter of comment that the conveyance of crude oil in the Enbridge Line 9 raises concerns with respect to drinking water supplies, concerns that have been identified in proposed policies in the source protection plans.
4998. The City of Hamilton states:
- “Enbridge should strive to convey a higher confidence to municipalities that their spill response program is better developed and subject to continual improvement...” [D36-2-1, City of Hamilton Letter of Comment, Adobe page 4, Paper page 4]*
4999. Similarly, the Toronto Region Conservation Authority evidence is that Enbridge needs to take a proactive approach to protect the source water protection areas at the Lake Ontario drinking watering intakes in Ajax, the City of Toronto and South Peel. *[C39-4-1, TRCA Written Evidence, paragraph 92, Adobe page 20, Paper page 20]*
5000. Enbridge has indicated that it would welcome the opportunity to continue discussions with Ontario regarding source protection policies. *[B20, Enbridge Response to Ontario Ministry of Energy No. 1, IR 1.46 a-b, Adobe page 83, Paper page 83]*
5001. Given the critical importance of protecting drinking water supplies, Ontario requests that the Board impose an additional condition in requiring that Enbridge include vulnerable areas identified in source protection plans on their high consequence area and environmental sensitive area maps *[B20, Enbridge Response to Ontario Ministry of Energy No. 1, IR 1.46 c, Adobe page 83, Paper page 83]* before receiving leave to open and update this information as necessary over time.
5002. Madam Chair, a few moments ago I mentioned the importance of annual emergency response exercises with municipalities. We also believe that drinking water sources are an important consideration in emergency response planning. Therefore, we request that the Board impose a further condition requiring Enbridge to incorporate vulnerable areas into Enbridge’s emergency response plan before receiving leave to open.

5003. Ontario notes that the Board's Draft Potential Condition Number 22 requires Enbridge to file a watercourse crossing management plan within 18 months of receiving leave to open. *[A47-7, Appendix II: Draft Potential Conditions OH-002-2013, Adobe page 5, Paper page 5]* Ontario supports this condition but requests that it be modified to require that Enbridge file the watercourse crossing management plan prior to receiving leave to open.
5004. Issue seven, consultation with Aboriginal groups and the potential impacts of the proposed project on Aboriginal interests.
5005. Madam Chair, Ontario acknowledges that the project is a federally regulated undertaking and the federal Crown holds any applicable duty to consult and accommodate. It is both the law and Ontario policy that the Crown must fulfil its duty to consult.
5006. Ontario supports the Board's full consideration of any duty that may arise in relation to the proposed project and of any potential impacts of its decision on Aboriginal rights to the full extent of the Board's jurisdiction.
5007. Issue eight, consultation activities and potential impacts of the proposed project on affected landowners and land use.
5008. Ontario Information Request 1.52 asked Enbridge if it would agree to a proposed condition requiring the company to file an annual report on Line 9 operations. Enbridge's response to this request was that "such a condition would be unduly onerous and not provide any improvements with respect to the safe operation of the pipeline". *[B-20, Enbridge Response to Ontario IR No. 1, IR 1.52, Adobe page 95, Paper page 95]*
5009. Ontario disagrees with this response as Enbridge has recognized an effective public awareness program is a key component of pipeline safety. *[C19-4-7, Attachment 6 to National Farmers Union Evidence, Enbridge Public Awareness Program (section 1-1), Adobe page 4]*
5010. Despite being an operating pipeline since 1976, public awareness of Line 9 appears to be limited. This is demonstrated by the significant concerns raised by municipalities as summarized in the preamble to NEB Information Request 4.9 to Enbridge. *[A39-1, NEB Information Request No. 4 to Enbridge, IR 4.9, Adobe page 12-13, Paper page 10-11]*

5011. Another example is found in evidence filed by the City of Toronto where the Toronto Transit Commission recommends that a site-specific risk assessment and emergency response plan be provided for the Finch Station area. [C40-7-2, City of Toronto Written Evidence, Adobe page 7, Paper page 7, paragraph 28]

5012. In the National Transportation Safety Board Accident Report, the NTSB concluded that:

*“Had Enbridge operated an effective public awareness program, local emergency response agencies would have been better prepared to respond to early indications of the rupture and may have been able to locate the crude oil and notify Enbridge before control centre staff tried to start the line.”*  
[C21-3-6, Attachment 3 to OPLA IR No. 1, Pt. 2 NTSB Report, Adobe page 31, Paper page 119]

5013. Furthermore, the NTSB noted:

*“Insufficient public awareness and education, which allowed the release to continue for nearly 14 hours after the first notification of an odour to local emergency response agencies.”* [C21-3-5, Attachment 3 to OPLA IR No. 1, Pt. 1 NTSB Report, Adobe page 13, Paper page 113]

5014. Madam Chair, we request the condition that Enbridge prepare an annual report on Line 9 operations, including information on spills and associated environmental impacts, repair work completed, integrity digs done, inline inspection tool runs, consultation activities, training exercises conducted and maintenance activities.

5015. The report should be distributed to landowners, First Nations, municipal officials, first responders, provincial authorities, and source water protection authorities in order to improve awareness of Line 9, enhance transparency of pipeline operations, and help foster a safety culture at Enbridge. The report should also be made publicly available online. This will improve awareness and facilitate notification and response in the event of a spill or incident.

5016. Ontario acknowledges that the Draft Potential Conditions [A47-7,

*Appendix II: Draft Potential Conditions OH-002-2013]* proposed by the Board require additional reporting from Enbridge. The information requested in the Board's Draft Potential Condition 21, requiring an outgoing engagement report on Draft Potential Condition 23, requiring a report on emergency response exercises, contains the kind of information Ontario would like to see in the annual report we are requesting.

5017.           However, Draft Potential Condition 21 applies to only the first three years of operation, and Draft Potential Condition 23 is a one-time requirement. Due to the importance of public awareness, Ontario submits that ongoing annual reporting is necessary and appropriate.
5018.           Issue 9 terms and conditions: Madam Chair, as I have explained today, Ontario submits that additional terms and conditions are needed, both to inform the Board's decision on this project, and ensure the highest level of environmental protection is applied to Line 9 if the project is approved. I will conclude by summarizing these.
5019.           We request that the Board impose a condition requiring an independent third-party review of the engineering assessment and the pipeline risk assessment. We also request that the Board impose a condition requiring a hydrostatic test. We request that the Board take into account both the results of the third-party review and the hydrostatic test before deciding whether or not to approve this project.
5020.           If the project is approved, we request that the Board impose as a condition a requirement for comprehensive financial assurance, which would include at least \$1 billion U.S. in insurance and a review of the financial assurance plan on a five-year basis.
5021.           We also request that the Board impose a condition requiring that Enbridge incorporate vulnerable areas and source protection plans into their high consequence area and environmentally sensitive area maps, and a further condition that these vulnerable areas be incorporated into its emergency response plan.
5022.           We also request a condition that Enbridge conduct annual emergency response exercises of all interested Ontario municipalities. Finally, we request that the Board impose as a condition a requirement that Enbridge prepare an annual report on Line 9 and that the report be made widely available, including

online.

5023. Madam Chair, and Members of the Tribunal, this concludes Ontario's final argument. I would be pleased to answer any questions you may have.

5024. **THE CHAIRPERSON:** Just give us a few seconds; you delivered quite a bit here.

5025. **MR. JENNINGS:** Yes. Okay, yeah.

--- (A short pause/Courte pause)

5026. **THE CHAIRPERSON:** Monsieur Gauthier?

5027. **MEMBER GAUTHIER:** Yes, one area where I would like to have more details; you're certainly aware that the Board -- NEB is making an assessment on the pipeline and pipeline integrity, and then you asked for an independent third-party's assessment, engineering and so on.

5028. **MR. JENNINGS:** An engineering assessment.

5029. **MEMBER GAUTHIER:** Yeah.

5030. Do you -- could you perceive that you need this independent report plus and after the NEB's report and assessment we're doing?

5031. **MR. JENNINGS:** I think the third-party engineering review would be to be looking at the actual detailed data and information that Enbridge used in making its plans. So we're talking about an assessment on, I think, a different level than the Board would be doing.

5032. **MEMBER GAUTHIER:** Okay, this is different. Thank you.

5033. **MEMBER RICHMOND:** Mr. Jennings, we've heard a lot from municipalities about first responders. I wonder if you could specify if there are provincial agencies that would also be first responders, maybe OPP or others in a location where there is not a municipality.

5034. **MR. JENNINGS:** Yes, the OPP would have that responsibility in unorganized parts of the province or much of the province. There's also

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- Emergency Measures Ontario, which coordinates that activity in -- across the province, plus the Ministry of Environment has their Spills Action Centre. So those would be all areas that Enbridge would be coordinating with.
5035.           **MEMBER RICHMOND:** So when we talk about coordinating with first responders, it's not just the municipalities, you're suggesting, there is a list of provincial agencies as well?
5036.           **MR. JENNINGS:** Yes.
5037.           **MEMBER RICHMOND:** And would that apply for the emergency training exercises that you suggest that should be annual?
5038.           **MR. JENNINGS:** Yes, so they would be participating also in those exercises, as they are, I think, in the Grand River one that we mentioned.
5039.           **MEMBER RICHMOND:** We heard last week -- I've asked this question to every municipality -- about provision of emergency response information and manuals and USB keys, so we've discussed with other intervenors whether municipal first responders receive that. If there are provincial agencies that are first responders -- you may not be aware of this -- but do you know whether they have been provided emergency response materials?
5040.           **MR. JENNINGS:** So we don't know if they have actually received that information yet, but we know that they are interested in getting the information.
5041.           **MEMBER RICHMOND:** And I think the City of Toronto, amongst others, have provided a list -- their list is probably the clearest of the list of information they think they need in terms of emergency response materials. Is that list -- I don't know if you've had a chance to review it -- are there other information you think ---
5042.           **MR. JENNINGS:** I think we've ---
5043.           **MEMBER RICHMOND:** --- you would need?
5044.           **MR. JENNINGS:** --- been generally supportive, of -- as we talked about here, of what the municipalities have identified, and I did hear the first part this morning, Toronto, going into more detail about that.

5045.           **MEMBER RICHMOND:** Now, my second question relates to the financial assurances plan, and you had noted the condition for at least a billion dollars of insurance and then reviewed every five years. Is insurance the only mechanism that you would be comfortable with, or would it be -- are there other financial tools that could be put in place to get to that level that are not just insurance?
5046.           **MR. JENNINGS:** Well, we've identified the billion in insurance. I think if there were additional things on top of that I think we would be supportive of that as well. I guess you'd have to see -- you could go anywhere from just saying we have, you know, the corporate backing or whatever it was. We'd have to see what the details of those were. I mean, we suggested the billion in insurance, if there's an alternative we would have to look at what that was.
5047.           **MEMBER RICHMOND:** Okay, thank you.
5048.           **THE CHAIRPERSON:** I just want to piggy on what Mr. Gauthier was asking you, just to make sure that I understand.
5049.           So if I were to tell you that the NEB itself with its staff does conduct a thorough review and examination of the engineering assessment, all the integrity of mechanism and also, you know, hydrostatic test, if I confirm to you that we do this, do you still want to have third-party review?
5050.           **MR. JENNINGS:** Well, yeah, I think what we're proposing is someone could actually look at the detailed data behind it, not just so much as the study. So I'm not sure that we're ---
5051.           **THE CHAIRPERSON:** Okay.
5052.           **MR. JENNINGS:** --- fully aware of what you're doing and how that relates.
5053.           **THE CHAIRPERSON:** Okay, so, no, so you want to ensure that somebody is looking at -- in detail review, whether it's the NEB or whether it's a third-party?
5054.           **MR. JENNINGS:** Well we're suggesting a third-party but I guess if you're saying that that is duplicative ---

5055.           **THE CHAIRPERSON:** Yes.

5056.           **MR. JENNINGS:** --- then ---

5057.           **THE CHAIRPERSON:** If it would be duplicative, then it could be the NEB that does it?

5058.           **MR. JENNINGS:** Yeah, so what we were saying, specifically, is we want to have an independent review of the engineering, the detailed data that forms the engineering plan.

5059.           **THE CHAIRPERSON:** It's good, it's clear.

5060.           **MR. JENNINGS:** Okay.

5061.           **THE CHAIRPERSON:** So we thank the Ministry of Energy of Ontario for this well-prepared and total presentation.

5062.           **MR. JENNINGS:** Okay.

5063.           **THE CHAIRPERSON:** And I think it's going to be time for lunch and then we'll -- the next speaker will be Ontario Petroleum Institute with Mr. McIntosh and Mr. Moran.

5064.           We'll see you at 1:30.

--- Upon recessing at 12:21 p.m./L'audience est suspendue à 12h21

--- Upon resuming at 13:35 p.m./L'audience est reprise à 1h35

5065.           **THE CHAIRPERSON:** Welcome back.

5066.           Before we start, the next people up are the Ontario Petroleum Institute. And -- but before we start I think we have a preliminary matter.

5067.           Mr. Ryan Rodier?

5068.           **MR. RODIER:** Thank you, Madam Chair.

**Ruling of the Board  
Chairperson**

5069. The Board received a Notice of Motion dated October 16<sup>th</sup> from the Grand Chief of the Mohawk Council of Kanasatake, and the Kanasatake First Nation are one of the groups that Enbridge noted in their application -- it's one of the groups that they had engaged with for this application.

5070. To date, the Kanasatake have not participated in the process, but the Grand Chief's Notice of Motion now asks for an opportunity to participate as a commenter in this process.

5071. Attached to the Notice of Motion is an Application to Participate, dated October 16<sup>th</sup>, as well as a Band Council Resolution which is dated October 10<sup>th</sup>. And the Grand Chief has asked that that be accepted as a letter of comment into this proceeding.

5072. I understand that the Board -- the Panel has had an opportunity to review the motion and may be prepared to rule on that at this time.

5073. **THE CHAIRPERSON:** Yes, the Panel has considered the Grand Chief's Notice of Motion and has decided to allow the Mohawks of Kanasatake to participate by adding the Band Resolution to -- as a letter of comment.

5074. And Mr. Crowther, you can address it in reply if you want or if you have other comments, you can come up.

5075. So I think we need a ruling number.

5076. **THE REGULATORY OFFICER:** And that would be Ruling Number 22.

5077. **MR. RODIER:** And Ms. Niro, I think we need exhibit numbers for the documents as well, please.

5078. **THE REGULATORY OFFICER:** Yes, that will be Exhibit Number D112-1-1, -2, -3.

--- **EXHIBIT NO./PIÈCE No. D112-1-1:**

*Mohawk Council of Kanasatake - Notice of Motion*

**--- EXHIBIT NO./PIÈCE No. D112-1-2:**

*Mohawk Council of Kanasatake - Application to Participate*

**--- EXHIBIT NO./PIÈCE No. D112-1-3:**

*Mohawk Council of Kanasatake - Resolution*

5079.           **MR. RODIER:** And just one final note, that the Notice of Motion and the documents are available on the Board's Web site as of this morning as well.

5080.           **THE CHAIRPERSON:** Thank you, Mr. Rodier.

5081.           Now Mr. McIntosh or Mr. Moran?

**--- FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR ONTARIO  
PETROLEUM INSTITUTE:**

5082.           **MR. McINTOSH:** Good afternoon.

5083.           **THE CHAIRPERSON:** Good afternoon.

5084.           **MR. McINTOSH:** My name is Jim McIntosh, I'm a petroleum engineer, engineering consultant active in Southwestern Ontario for the last 25 years. I'm present on behalf of the Ontario Petroleum Institute, or the OPI.

5085.           The OPI is an industry association founded in 1963 and represents companies and individuals involved in oil and natural gas production, hydrocarbon storage, and salt solution mining in Ontario.

5086.           The OPI membership includes oil and gas -- oil and natural gas producing companies, drilling companies, well and oilfield services companies, geologists, geophysicists, engineers, environmental consultants, financial/legal services, land services and utilities.

5087.           The oil and gas industry in Ontario exists primarily in Southwestern Ontario where 130 companies are in the oil and natural gas production business. One of North America's largest underground natural gas storage hubs is located in

Dawn Township, southeast of Sarnia.

5088.           Underground salt caverns in the Sarnia area are used for -- used to store many of the refined products produced at the refineries in Sarnia and a thriving salt and solution mining business operates in Goderich and Windsor.
5089.           **MEMBER GAUTHIER:** Excuse me, could you stay closer to the microphone, please.
5090.           **MR. McINTOSH:** Sorry.
5091.           The oil and natural gas industry has made a significant contribution to Ontario's economy, especially in Southwestern Ontario. Since the beginning, an estimated 50,000 oil and natural gas wells have been drilled on land as well as offshore in Lake Erie.
5092.           Today, the impact of this contribution to the energy needs of a significant number of Canadian consumers can be seen in many ways: oil exploration and production; natural gas exploration and production; world-class oil refinery operations; natural gas underground storage; salt solution mining and hydrocarbon underground storage associated with the petrochemical industry.
5093.           The value of production and storage in Ontario is significant. As you can see on the county map there, 1,183 wells produced 478,000 barrels of oil, valued at \$38.3 million in 2012. Most of the production is in Lambton, Kent, Essex and Elgin counties, fairly close to Sarnia.
5094.           Twelve hundred and twenty-one (1,221) wells produced 7.8 billion cubic feet of natural gas valued at \$21.6 million. You can see that natural gas is very much more spread out throughout Southwestern Ontario and the Canadian side of Lake Erie.
5095.           There's 244 Bcf of natural gas storage capability in geological formations, valued at \$1 billion. And there are salt solution caverns in the Sarnia area capable of storing 3.5 million cubic metres of hydrocarbon products worth \$2 billion.
5096.           The Ontario Ministry of Natural Resources, the MNR, regulates the industry through the *Oil, Gas and Salt Resources Act* and associated standards and regulations, which were designed to ensure safe operation, protect the

- environment and the general public and to ensure the safe extraction of Ontario's hydrocarbon resources.
5097. Ontario oil and natural gas producers have been safely harvesting energy for 155 years. The industry is an important part of the Ontario economy, producing oil and natural gas primarily in Southwestern Ontario.
5098. A group of local refiners in Petrolia, Ontario banded together in the 1800s to form one of Canada's most visible corporate entities, Imperial Oil. Ontario's oil producers and Imperial Oil have a long established business relationship which continues to this day.
5099. Ontario natural gas producers have supplied energy to natural gas distributors -- familiar names like Enbridge Gas, Union Gas and TransCanada PipeLines -- since the early 1900s.
5100. This map shows the pipeline infrastructure in Southwestern Ontario, the red being natural gas lines, the blue being primarily the Enbridge Line 9 that we're here for.
5101. It is generally understood, after 155 years of production, that 50 percent of the potentially recoverable oil and natural gas in Ontario still remains to be developed. Ontario currently imports the majority of its energy supply for power and transportation.
5102. Increasing this supply from the province's own natural resources enhances the security of that supply and contributes to the economic well-being through the jobs created and service and supplies purchased in towns, cities and municipalities across Ontario. Recovering this potential will require a significant financial investment for exploration and production. Producers need a competitive market in which to sell to maximize returns.
5103. Currently, production from individual oilfields is collected at local battery sites where the oil is separated from associated water and stored. Marcus Terminals Inc. is in agreement between Ontario producers, Imperial Oil, and Marcus, purchases crude oil directly from producers and provides hauling and terminaling services prior to delivery into Imperial Oil's refinery at Sarnia. The oil price paid to Ontario producers by Imperial via Marcus has historically been based on western Canadian oil prices, adjusted for the cost of transporting the oil to Sarnia.

5104. Significant increases in North American oil production have resulted in dramatic changes in the market and specifically in the prices received by Canadian and Ontario producers. Oil prices have been discounted as much as 20 percent lower than benchmark West Texas Intermediate or Brent crude oil prices.
5105. This prompted Ontario producers, in 2012, to look for alternative markets for oil. Despite their longstanding relationship with Imperial Oil it became a matter of sheer economics. The discounted Canadian price was having a significant impact on company margins and adjusting the bottom lines.
5106. There are three crude oil marketing alternatives for the Ontario producers; ship the oil east to refineries in Quebec or New Brunswick; ship oil south into the United States, or negotiate a better price with refineries in the Sarnia area, either Imperial, Sun or Shell.
5107. Presently, option three is in effect. Ontario producers have a satisfactory purchase price arrangement with Imperial Oil. However, as in all business, there is no guarantee that this arrangement will exist in perpetuity. Imperial Oil's Ontario supply can be obtained from beyond provincial borders. Ontario producers are indirectly vulnerable to any difficulties with the refined product transportation system from the Sarnia area to the GTA.
5108. It is around these issues of price and delivery that prompted consideration for other options. Option 2, sales to the U.S. refineries, would require crude oil shipment by tanker to the U.S. refineries. The downside of this option is increased cost of transportation, longer hauling distances, more administrative costs and cross-border issues, all of which slow down oil delivery.
5109. The logical and practical choice for an alternative market for Ontario oil production would be refineries in Eastern Canada, Montreal and potentially Saint John. This option is practical only if pipeline delivery is available. The reversal of Line 9 provides that availability.
5110. The reversal of Enbridge Line 9 pipeline offers producers an enhanced competitive market alternative for current and future production. To remain viable, contributors in the Ontario economy -- to remain viable contributors to the Ontario economy, the producers' ability to market its current and future production is an important priority.

5111. The Line 9 reversal would open up a market to Ontario producers to sell volumes of oil at stronger margins to alternative markets in Canada. The approval of the reversal project provides the Ontario oil producers with economic access to markets not currently available. The Line 9 pipeline provides an option that enables oil to be transported to eastern Canadian refineries at a cost differential superior to other alternatives, road, rail or water.
5112. Having this added transportation choice helps remove any bottlenecks created by oversupply at Sarnia. Additional refinery options for crude oil volumes for Ontario producers will firm up the price we receive. In addition, the producers anticipate that the approval of the Enbridge line reversal project opens up possibilities of alternative access points besides the Sarnia area into the Enbridge pipeline. I'm thinking specifically of Westover, just outside of Hamilton.
5113. The Ontario industry accepts the argument that the reversal is being undertaken to meet the energy needs of industry in Ontario and Quebec. The reversal provides the Ontario industry the choice of continuing to supply Ontario consumers or, if circumstances dictate, to supply consumers in Eastern Canada.
5114. The increased market access has both a national and regional impact. It brings in added and very important benefits of retaining jobs and experience in Ontario that will be needed for the sector to operate. The collateral benefit for the Ontario oil and natural gas industry will be the skilled jobs required for the reversal of Line 9B, most of which are transferable to Ontario producers.
5115. OPI member oil and natural gas producing companies have been safely using pipelines in gathering and transportation systems for over 100 years. The OPI fully expects Enbridge to meet its responsibility and commitment to operate Line 9 to the highest standards to ensure the health and safety of the communities along the route and in the surrounding areas.
5116. In conclusion, the OPI, on behalf of the Ontario oil and gas producers, support the Enbridge proposal to reverse the flow through their Line 9 pipeline system. The reversed system will increase market alternatives for local producers, ensuring they receive prices that more closely reflect oil prices in other parts of North America. The more stable crude oil price will ensure additional exploration and production in Ontario and the jobs created by that activity.
5117. Thank you.

5118.           **THE CHAIRPERSON:** Mr. Richmond?
5119.           **MEMBER RICHMOND:** So you seem to be suggesting that reversing Line 9 could relieve Ontario producers of the impact of price differential for Canadian oil.
5120.           Last week, in various testimony we had last week there seemed to be some debate over whether price differential will continue past beyond 2016 or not. Do you have a view on that debate?
5121.           **MR. McINTOSH:** The price differential between what we call Edmonton par price, the price for oil in Edmonton and West Texas Intermediate and Brent has been significant. The West Texas Intermediate/Brent differential has largely gone away. That differential between Edmonton and West Texas is still there, to a degree. That's the differential that we're concerned about because we don't get price relative to West Texas Intermediate here. We're priced more closely to Edmonton plus transportation, which puts us at a disadvantage, price wise, compared to what we could sell into the U.S. market.
5122.           **MEMBER RICHMOND:** So I think the argument from, I believe, refineries and Enbridge was that by approving this project they would have -- they'll be paying a lower price?
5123.           **MR. McINTOSH:** Oh, yes. Like the Montreal and Saint John refineries would definitely get lower price for their crude, but it would be higher price than what we're receiving right now in Sarnia refineries for our crude.
5124.           **MEMBER RICHMOND:** Gotcha. So it's kind of in the middle or -- it would be in the middle. You won't get Brent it will be ---
5125.           **MR. McINTOSH:** No, we don't expect to get Brent prices or even for that matter West Texas prices, but we just want some acknowledgment for the fact that we're close to the end users.
5126.           **MEMBER RICHMOND:** Thank you. I understand now.
5127.           **MR. McINTOSH:** Okay. Thank you.

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5128.           **THE CHAIRPERSON:** Thank you very much.

5129.           Now, the next in line is the Ontario Pipeline Landowners Association represented by Mr. John Goudy.

**--- FINAL ARGUMENT BY/ARGUMENTATION FINALE PAR MR. GOUDY:**

5130.           **MR. GOUDY:** Good afternoon, it's John Goudy, counsel for the Ontario Pipeline Landowners Association. I'll refer to the group as OPLA in my submissions. And thank you for the opportunity to present final oral argument this afternoon.

5131.           OPLA as you're probably familiar with, is a voluntary organization made up of landowners on Line 9 in Southwestern Ontario and in Eastern Ontario. OPLA was formed in 1993 by Enbridge landowners concerned about Enbridge's -- or rather Interprovincial Pipe Lines, proposal at that time, to convert Line 8 to natural gas service. At that time, again, Enbridge was still Interprovincial Pipe Line Inc., and the project was known as the Intercoastal project.

5132.           OPLA has continued to represent landowner interests since that time, over the past 20 years and has dealt with both Enbridge and the National Energy Board on issues including project approvals, depth of cover, compensation, control zone under section 112 of NEB Act, integrity digs and pipeline abandonment.

5133.           OPLA participated in the 1997 hearing, to consider the first reversal of Line 9 and OPLA was an intervenor in the hearing last year with respect to the reversal of Line 9A between Sarnia and Westover.

5134.           Last year's hearing in London, related to the Line 9 Reversal Phase I project and Enbridge didn't call the new application being considered here the Line 9 Phase II project but instead it's come to be known as the Line 9B reversal hearing. In reality, the entirety of Line 9 is affected by this new application and that should be kept in mind.

5135.           Enbridge is proposing an increase in the flow rate for the entire pipeline by 20 percent over the design -- current design rate. But as was noted earlier today, we know that Line 9 has not been operating at its design rate. So the increase -- the actual increase in flow rate that's proposed over the current operating flow rate is more significant. And Enbridge is also proposing at this

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time, to allow for the flow of heavy crude oil through the entire pipeline, both Line 9A and Line 9B.

5136.           And what -- so landowners along the entire route of the pipeline from Sarnia to Montreal are concerned about the integrity of the pipeline. That's their prime concern. They have concerns about the risk of leaks, spills and ruptures, and in particular, a concern about whether this project will increase that risk and whether this project will increase the consequences of a leak, spill or rupture.
5137.           The landowners understand very well that the pipe is already there and they are stuck with it and this proceeding is not going to change that. And they hear what Enbridge has submitted to the Board throughout this process, that its operations are safe, that there is no cause for concern.
5138.           And they have heard the National Energy Board accept those statements at face value. We need look no further than the decision made by the National Energy Board last year in the 9A hearing process.
5139.           And even more so, the decision made by the National Energy Board just prior to its decision on Line 9A, when the Board declined to consider the findings of the NTSB in the Marshall, Michigan disaster in making its decision on Line 9A
5140.           In the Board's letter to OPLA, issued just seven days before the Board issued its decision approving the Line 9A reversal, the Board acknowledged that the NTSB report would likely contain relevant information about Enbridge and its operations, but that the Board didn't need to consider that information in order to approve the project, the Line 9A reversal project.
5141.           Remember, that decision -- I say approved because that decision to approve was made just seven days after the letter to OPLA.
5142.           The Board said that it was satisfied that it had:
- “...conducted a comprehensive assessment against its own set of regulatory requirements and applicable Canadian standards to determine whether Enbridge has the ability to safely construct and operate the project.”*
5143.           In that case it was Line 9A in reverse flow.

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5144. That response from the Board, prior to the release of the NTSB report and with the knowledge that the NTSB report would be released momentarily, was entirely in line with what Enbridge had told OPLA and its landowners in the 9A process, trust us, we operate our pipelines safely. And the NEB told landowners, trust us, we regulate our pipelines adequately.
5145. Well, OPLA is here again in this second hearing to ask the Board to hold Enbridge to the highest standards of pipeline safety and integrity possible, and to ensure, that the Board itself, holds itself to the highest standard as a regulator with responsibility for environmental protection.
5146. The NTSB report, the National Transportation Safety Board report, that was released after this Board had already issued its Line 9 decision, revealed serious deficiencies in Enbridge's operations. Not just those in the United States, but the same operations in Canada.
5147. And the NTSB report also cited regulatory deficiencies among the causes of the Marshall, Michigan disaster. And I call it a disaster, not an incident as it is often referred to, including by the Board in its compliance verification report from May of this year. [C21-9-2, at adobe page 2]
5148. I would suggest that calling the spill of almost 3.2 million litres of crude oil into a river system is an understatement. The importance of the rupture cannot be minimized.
5149. The Marshall Michigan disaster is obviously a cause for concern for everyone and it has been for the past 3 or 4 years. And it continues to be in the public eye
5150. In responding to arguments that had been raised about spill response -- or evidence that had been put forward about spill response in this hearing, Enbridge submitted to you the following in its argument:

*“What all of those arguments fail to acknowledge is that we are no longer in 2010 and that in the intervening years, and under the close and careful supervision of the National Energy Board, Enbridge has implemented a large number of operational and procedural changes based on its detailed investigations of, and lessons learned from, the Marshall*

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*Incident.” [Transcript, Vol. 1, paragraph 406]*

5151. But it's not as if Marshall was the last release from an Enbridge pipeline. If you go to the compliance verification report from the Board this year, in May, which is Exhibit C21-9-2 at page 5, there the Board refers to two large leaks experienced since the Marshall incident, on pipelines regulated by other regulatory authorities
5152. And since those were on non-NEB pipelines then they must be in addition to the multiple leaks from the Norman Wells pipeline operated by Enbridge in the Northwest Territories, which are referenced in OPLA's written evidence.
5153. And we don't need to turn to it but in OPLA's evidence there's the report concerning the pinhole leak [*Exhibit C21-9-9*] and the release of 1,600 barrels of oil from the Norman Wells pipeline.
5154. And also at Exhibit C21-8-11 in OPLA's evidence, there's the Board's March 22<sup>nd</sup>, 2013 letter to Enbridge concerning four additional leaks discovered earlier this year on that pipeline, not discovered until Enbridge was conducting planned integrity investigations. And there was reference today and yesterday concerning another spill related to the flooding in Alberta this summer.
5155. So OPLA is back here again in this hearing process because there is still room for improvement, even if the Board disagreed when it declined to implement any of the conditions OPLA had proposed in the Line 9A hearing.
5156. In Enbridge's argument it was said:
- "...Enbridge is not only fully confident in its ability to operate Line 9 safely but equally confident in the ability of its regulator, the National Energy Board, to ensure that it does so." [Transcript, Volume 1, Paragraph 280]*
5157. OPLA and the landowners along Line 9 hope that they can share in that confidence. They have conditions to propose again in this application, which I will address in due course. Those conditions will go some way toward creating that confidence, confidence in Enbridge and confidence in the Board.
5158. Again, landowners are concerned about whether this project will

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increase the risk of leaks, spills and ruptures and whether this program -- sorry, project will increase the consequence of a leak, spill or rupture.

5159.           And keep in mind that for individual landowners, you don't need a rupture on the scale of a Marshall, Michigan rupture to create a significant problem. Having -- simply having a property that is a contaminated site is a problem. It doesn't have to be 3.2 million litres of crude oil.
5160.           So landowners are concerned about the potential effects of increasing the flow rate of Line 9 and concerned about adding heavy crude oil, including dilbit, to the products being transported on Line 9.
5161.           OPLA would have thought that increased spill consequence, which is acknowledged by Enbridge, even based on its own approach to calculating product out amounts, OPLA would have thought that the risk and consequence of a pipeline leak, spill or rupture would have been addressed in Enbridge's environmental assessment of the project.
5162.           I should say Enbridge would have thought that were it not for its experience in the Line 9A hearing last year. Enbridge didn't include an environmental assessment of the project related to the operational risks of spills, leaks and ruptures in that application either.
5163.           The deficiency in the application, as OPLA would suggest it to be, was the subject of its Information Request 1.6, which is at Exhibit B19-1. Where OPLA asks, in Part B:

*"If Mainline leaks and ruptures are not addressed in the ESEIA, please explain why they were not addressed."*

5164.           And the first response Enbridge received was that Enbridge objects to the request as this information -- as the information sought is not relevant to the issues in this proceeding. [*Exhibit B19-1, at adobe page 7*] And that's on the screen before you.
5165.           Now, Enbridge did provide a supplementary response after OPLA brought a motion to compel a response. And that is at Exhibit B27-2. And the response is that the scope of the project, as set out by the NEB, doesn't include Mainline leaks and ruptures.

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5166. In OPLA's submission, that unfortunately puts the cart before the horse; that the Board made such a determination at the very commencement of the hearing process without any input -- without input from any party save for Enbridge.

5167. But we know from the Line 9 proceeding that the NEB agrees with Enbridge's position and likely has no intention of requiring an environmental assessment of the possibility of Mainline leaks and ruptures as a result of the project. And I'll quote from the OH-5-2011 decision, where the Board wrote at Adobe page 13:

*"The Board recognizes the concerns voiced by the public about operational accidents and malfunctions, including concerns about the structural integrity of the pipeline. Details are provided in the EA report and in Section 6.0 of this letter decision. As discussed in its EA report, the Board is of the view that Enbridge has an appropriate set of systems, procedures and protocols in place to manage risks associated with pipeline integrity to identify potential leaks or ruptures and to respond effectively to those events if they occur. As the Board as determined in its EA report, taking into account Enbridge's implementation of its proposed environmental protection procedures and mitigation measures and through its compliance with the Board's regulatory requirements and the Board's conditions of approval, the Project is not likely to cause significant adverse environmental effects."*

5168. Remember, that decision came just seven days after the Board's letter to OPLA, saying that the Board didn't need to wait for and didn't need to review the NTSB report before approving Enbridge's Line 9A application.

5169. So perhaps there's room for the Board to take a different approach in this proceeding. Perhaps its statement in the Line 9A decision that Enbridge's systems, procedures and protocols were appropriate was premature in that case, given that the Board was aware that the NTSB report was coming and given that the Board eventually issued a safety order to Enbridge, Order SO-E101-003-2013.

5170. According to the compliance verification report, which is at Exhibit C21-9-2, the Board didn't conduct its inspection and assessment until August and September 2012, its inspection and assessment that came after its review of the

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- NTSB report.
5171. And that inspection and assessment included a review of Enbridge's pipeline control and leak detection system, pipeline integrity management program, emergency procedures program and public awareness, management system processes and safety culture.
5172. Again, that was August and September 2012, the safety order and the compliance verification report came out in May 2013, but the Board had already decided in July 2012 that everything was fine on Line 9A. There was no need for an environmental assessment of potential Mainline leaks and ruptures.
5173. So again, maybe there is reason to revisit that issue. Perhaps there's reason to revisit that issue and require the environmental assessment this time around.
5174. Apart from questioning the Board's Line 9A decision not to require an environmental assessment of Mainline leaks and ruptures because of the timing in connection with the NTSB report, OPLA also questions how the operation of the pipeline, which is being modified by this project, can be separated out from the project itself.
5175. Enbridge said that Mainline leaks and ruptures aren't in the scope of the project. Well tell that to the hundreds and hundreds of landowners facing integrity digs on their properties as a result of this project.
5176. Enbridge has advised the Board that in 2013 alone, it plans to conduct approximately 600 digs on Line 9. [*Enbridge Response to NEB IR 3.12, Exhibit B18-2, Adobe page 34*] Compare that to the number of digs conducted on the entire Enbridge system in North America in 2011, which was 1,900, over the entire system, of which Line 9 is a small part. [*OPLA Evidence, paragraph 7, Exhibit C21-7-2, Adobe page 3*]
5177. The inference to be drawn from the huge spike in integrity digs on Line 9 that coincides with this application is that the digs are in effect part of this application. Enbridge said in argument that: "It is clear that the Project scope does not include" investigative excavations [*Transcript, Volume 1, paragraph 538*] -- but that's really Enbridge saying, they don't form part of the scope of this project because we say they don't.

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5178. The evidence of the spike in the number of digs in 2013 suggests otherwise. Integrity digs are on the rise, and so too are spills and ruptures from Enbridge pipelines. If you go back to the OPLA evidence statement at Exhibit C21-7-2 at Adobe page 3, OPLA included at paragraph 7, a table compiled from information contained in Enbridge's annual corporate social responsibility reports. And as you'll see, in 2011, I referenced earlier the 1,900 number of digs on the Enbridge system.
5179. During the 16 years for which we have information from Enbridge on its liquids pipeline system, the average number of spills per year is 57.9. But in the last five years reported, the average number of spills per year is 73.2. And if you compare the data in five-year sections, the trend is going upwards. And volume of spills and leaks and ruptures may go up or down, depending on the nature of the spill, but remember that for a landowner affected by contamination, you don't need to have a 3.2 million litre spill.
5180. As a result of this project, landowners on Line 9 are seeing more integrity digs than ever before, but there's no assessment of the impact of those digs in this project application, because Enbridge says it's not in the scope of its project.
5181. In its written evidence, OPLA included a series of notifications of integrity digs filed by Enbridge in August of this year. They were filed as a group because they demonstrate just how intense the dig program has become.
5182. If you could please bring up Exhibit C21-11-2 and leave it on Figure 1 here. There are notifications for eight digs filed in August that were to take place at distances between 33 metres and 111 metres from that poor residence that you can see on the map. Eight digs less than 111 metres from a residence. Where is the environmental assessment for that part of the project?
5183. OPLA has provided statements from three different agricultural landowners at Exhibits C21-8-2-3 and -4. We don't need to turn to those. All three of the landowners have ongoing integrity digs and they also have historical contamination being investigated in connection with those digs. None of the three landowners has been satisfied with Enbridge's handling of the digs. In one statement the landowner writes:

*"Landowners have to be in their face [in Enbridge's face] at all times to force them to do [the] things they should be doing de*

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*rigueur." [Adobe page 5]*

5184. In another statement, [C21-8-3] the landowner says:

*"Enbridge has been insensitive to the impacts this dig has had on our lives and routines."*

5185. I would encourage the Board when reviewing the evidence to pay particular attention to those landowner statements that I've referenced.

5186. Enbridge Line 9 can no longer be for landowners out of sight and out of mind. Enbridge's operation is having a real impact on landowners -- one that, in OPLA's submission, warrants attention by the Board in this proceeding, whether or not Enbridge says that the digs form part of the scope they have set for their project. If Line 9 is going to continue to be operated, it seems clear that it cannot be operated without significant interference with landowners and their properties.

5187. OPLA has reviewed the conditions proposed by the Board in this proceeding, which are at Exhibit A47-7. OPLA is requesting some modified and some additional conditions that it submits are necessary to address landowner concerns about the project and necessary to take a step forward instilling in landowners the same sort of confidence in Enbridge and in the Board that Enbridge spoke about having in its argument in-chief. [*Transcript, Vol. 1, paragraph 280*]

5188. In large part, the conditions are about transparency and accountability, about making information available to the public on an ongoing basis; and about demonstrating that Enbridge and the Board are seeking out all of the information available to inform their decisions about the operation and about the changes in operation of Line 9.

5189. OPLA has submissions with respect to the leave to open conditions, which are at Proposed Conditions 9 through 18. OPLA is most interested in Proposed Condition Number 9, [*Exhibit A47-7, adobe pages 2-3*] which is on the screen before you.

5190. You may recall that OPLA, both in the Line 9A proceeding and in this proceeding, was requesting that Enbridge undertake new inline inspections of Line 9 and to prepare an updated engineering assessment for review by the Board

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and by the public before leave to open could be granted. The Board did not require that for Line 9A -- the Line 9A reversal. It was satisfied with the requirement that Enbridge do the updated ILI within 18 months of the reversal.

5191. In this proceeding, given that the new ILI has now been done, or is in process, OPLA asked Enbridge to provide updated engineering assessments based on that ILI so that the Board and the parties could review the latest information, the most up to date and best assessment of the current state of the pipe. Remember, this is a pipe that's undergoing 600 or so integrity digs in this year alone.

5192. At Exhibit B19-1, OPLA made the request to Enbridge in its Information Request 1.43(b), and Enbridge's response was -- so the request is for an updated environmental assessment that takes into consideration inspections conducted in 2012 and/or 2013 -- Enbridge's response was:

*"Enbridge objects to the request as it is unduly onerous and unreasonable. The time, effort and expense involved in the compilation of the requested information are not warranted by the relevance, if any, of the information sought, by the significance of the information in the context of the proceeding, or by the probative value of the result."*

5193. OPLA made a motion to compel Enbridge to provide the updated assessment, but the Board declined to make that order, though it did suggest in its decision [A18-1 at Adobe page 3] that it might require updated information before leave to open would be granted. And that is in Condition Number 9 -- Proposed Condition Number 9.

5194. But OPLA has some questions about the condition. Who will have access to that updated engineering assessment and when will they have access and will there be any opportunity to review the assessment and to make submissions on whether or not leave to open should be granted?

5195. As proposed by the Board, Enbridge is to file the engineering assessment with the Board at least 90 days before applying for leave to open. That should be sufficient for the parties to this proceeding to allow them to review the assessment and determine whether to make submissions concerning the leave to open application, or potentially to bring a motion under section 21 of the NEB Act to ask the Board to review its decision in this proceeding if the new

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assessment discloses errors in the Board's decision on Enbridge's section 58 application that result from a changed understanding of the condition of the pipe.

5196. Enbridge, in its argument, asked the Board to reduce the lead time to 30 days [*Transcript, Volume 1, paragraphs 547-548*] before it makes its application for leave to open. In OPLA's submission, that is not enough time. We know from the Line 9A reversal that there may be very little time between Enbridge filing its leave to open application and the Board granting that leave to open.
5197. Enbridge filed a summary report of the updated engineering assessment for Line 9A on June 12<sup>th</sup>, 2013. It made applications to operate in reversed flow on July 17<sup>th</sup>, 2013 and July 22<sup>nd</sup>, 2013. And within a week, the Board had issued its leave to open order, OPSO-E101-010-2013.
5198. In OPLA's submission, the Board needs to ensure that Enbridge files a full engineering assessment, not just a summary. And that appears to be what's required by Proposed Condition Number 9.
5199. And the Board needs to leave the 90-day period in place as proposed. And it needs to ensure that the full engineering assessment is made public for review. And if that's not already covered off in Proposed Condition Number 9 then it should be modified to provide for that publication.
5200. To the extent that it's necessary to do so, Condition 9 should also specify that the engineering assessment is required for the entirety of Line 9, not just Line 9B.
5201. OPLA is very critical of the way in which Enbridge chose to deal with the engineering assessment of Line 9A in this proceeding. Even though in this project Line 9 as a whole will be operated at a higher flow rate and may be used to transport heavy crude oil, Enbridge did not provide an updated engineering assessment for Line 9A.
5202. It simply stated the conclusion it had reached that operational changes would not affect the Line 9A engineering assessment already provided, but without any support provided for that conclusion outside of the assertion itself.
5203. If we could go to Exhibit B19-1, at Adobe page 37, we have, again, OPLA Information Request 1.29 to Enbridge.

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5204. In the reference section of the information request, OPLA set out the conclusion that had been stated by Enbridge regarding the Line 9A assessment. And OPLA asked for a copy of the assessment, a copy of any study report or other document prepared, received or commissioned by Enbridge or on behalf of Enbridge that reviews the conclusions reached in the Line 9 reversal Phase 1 EA under the operating parameters proposed for the project including, but not limited to, changes in product to be transported and changes in flow rates.

5205. And Enbridge objected to the request as being unreasonable and said that OPLA was engaged in a “fishing expedition”.

5206. No, Enbridge was wrong. OPLA was not engaged in a fishing expedition. OPLA was asking for the analysis to back up Enbridge’s claim that everything is fine with Line 9A.

5207. OPLA was not satisfied with Enbridge’s position that we aren’t going to provide you with an updated engineering assessment but trust us, we looked at it and everything is fine.

5208. OPLA submits that this does not satisfy the requirement of CSA Standard Z662-11, Section 3.3.4 which sets out the documentation required in connection with an engineering assessment.

5209. But once again, unfortunately, in a choice between transparency and secrecy, the Board agreed with Enbridge on this matter. And in Ruling Number 4, the Board ruled that:

*“The requested information goes beyond the level of detail that would be helpful to the Board in this proceeding. The summary information captured in Enbridge’s Engineering Assessment is sufficient.” [Exhibit A18-1, Adobe page 3]*

5210. And that summary information again is the statement by Enbridge that it reviewed its Line 9 engineering assessment in consideration of the increased annual capacity and transportation of heavy crude on Line 9A and the conclusions reached in that EA were confirmed. So just a statement of conclusion was enough to satisfy the Board in this case.

5211. Again, OPLA trusts that in complying with Proposed Condition

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Number 9, Enbridge will have to provide the full assessment of the full pipeline, not just a statement of conclusion without any supporting data or analysis.

5212. And OPLA concurs with the proposed requirement put forward by the Province of Ontario this morning, the requirement of an independent third-party review of the engineering assessment. That should be obtained and made public before the filing of the leave to open application so that the information is available to the Board and to the public in order to make an informed decision on whether to allow the pipeline to open.

5213. Could we please go back to A47-7? And that's again the conditions and at Adobe page 3 there is Condition Number 12. *[Exhibit A47-7, Adobe page 3]*

5214. So the next condition I'll address is with respect to the LDS manual to be filed by Enbridge. And the Board proposed that the LDS manual to be filed:

*"...must also demonstrate compliance with the relevant conclusions and outcomes of the Compliance Verification Report under the National Energy Board Act [...] and related Order SO-E101-003-2013."* *[Exhibit A47-7, Adobe page 3]*

5215. In argument, Enbridge asked that this condition be modified to remove the reference to the compliance verification report. *[Transcript, Volume 1, para. 557]* OPLA opposes that request.

5216. The compliance verification report was filed as part of OPLA's written evidence and it's at Exhibit C21-9-2.

5217. The report contains information and guidance that the order does not. And OPLA submits that the order alone doesn't accomplish what is set out in the report and probably would not accomplish what was intended by Proposed Condition Number 12. For example, you can look on Adobe page 5 at the bottom. There are three bullet points there. They are improvements being sought by the Board that aren't part of the order, the safety order, as far as I can see. And those improvements include:

*"Establishing processes and procedures that would treat a pipeline rupture [...] differently than a leak [...]; Evaluating shutdown procedures to minimize column separation and*

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*automating the announcement and analysis process if a column separation is detected; and Utilizing some SCADA [...] screens to display the high consequence areas or critical locations along the pipeline route, so that operators are able to pay particular attention to them in the event of a rupture or a leak.”*

5218. Again, OPLA has to expect that the Board made reference to the report separate from the order for a reason, and OPLA submits that the proposed condition should be left as proposed.

5219. If we could go back to the conditions -- proposed conditions for approval to Draft Condition 18 [*Exhibit A47-7, Adobe page 4*] on Adobe page 4. I have only a minor correction to propose here. I think that that condition should read “prior to applying for leave to open”. And it’s missing from the condition.

5220. I’ll go back now to Proposed Condition 11, [*Exhibit A47-7, Adobe page 3*] which is at Adobe page 3, and dealing with hydrostatic testing. This was addressed just this morning by the Province of Ontario as well.

5221. OPLA agrees with the proposal being advanced by Équiterre Coalition and by the Province of Ontario that Line 9 should be hydrostatically tested before it can be put into service for this project.

5222. Frankly, with the number of integrity digs going on, landowners are wondering how poor the condition of Line 9 actually is.

5223. Line 9 was tested in 1976, hydrostatically tested, and again in 1997. Enbridge, in its argument, appeared to suggest as one reason for not doing the test again at this time that, quote:

*“...the reality is that a successful hydrostatic test does not guarantee that the pipeline in question will not fail in the future.” [Transcript, Volume 1, paragraph 356]*

5224. End quote.

5225. Of course it doesn’t. There is no guarantee.

5226. But the information that a hydrostatic test provides is useful and

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reassuring. Enbridge also acknowledged in its argument that hydrostatic testing:

*“...provides confirmation at a particular time that the remaining defects in the pipeline have dimensions smaller than a critical defect size.” [Transcript, Volume 1, paragraph 356]*

5227. And Enbridge states that it can manage the potential detrimental effects of hydrostatic testing appropriately. [Transcript, Volume 1, paragraph 366]

5228. The Accufacts report filed as part of the evidence of Équiterre in this proceeding --Exhibit C13-6-3 -- provides reasons why hydrostatic testing should be required in this case. At Adobe page 7 and 8 the author of the report says:

*“Based on the information supplied in the Project’s EA, it is fair to assume that both Line 9A and 9B segments have extensive crack threat sites, such as SCC, [stress, corrosion and cracking] similar to those observed in Line 6B across that system.”*

5229. And remember, Line 6B is Enbridge’s pipeline through Michigan where the Marshall, Michigan rupture occurred.

5230. And then at Adobe page 28, further reasons given for requiring hydrostatic testing in this case -- the report says:

*“Since Enbridge has only recently incorporated changes in the ILI crack tools that were well known by the ILI vendor and Enbridge since 2008 to adjust for SCC misclassification and non-conservative depth bias, I cannot determine if the USCD ILI tool runs of 2012 will be accurate or reliable, or if field verification digs are appropriate for this still developing ‘push technology’.”*

5231. Those, I submit, are valid reasons given by an expert witness in this proceeding. OPLA takes that opinion seriously, especially when it is set against Enbridge’s reply evidence when Enbridge had the opportunity to address the reasons cited in the Accufacts report for requiring hydrostatic testing.

5232. If we could turn to Enbridge’s reply evidence at Exhibit B43-2, Adobe

page 3.

5233. Enbridge states in its evidence that in-line inspections were completed with “world-class inspection tools”. And it says that:

*“This combination of in-line inspections enables integration and comparison of data resulting from the application of different technologies and ensures a thorough understanding of the condition of the line.”*

5234. And as far as I can see, there is no mention of hydrostatic testing in Enbridge’s reply.

5235. No one can contest that Enbridge runs inline inspections, but Accufacts identified significant possible deficiencies in ILI and made specific reference to stress, corrosion, cracking misclassification and non-conservative defect depth bias, and Enbridge chose not to reply with evidence.

5236. Enbridge did address hydrostatic testing in its argument in-chief, by referring to a paper authored by Kiefner and Maxey, which was produced by Enbridge at Exhibit B35-45 in response to an information request by the City of Mississauga. The paper is called “the benefits and limitations of hydrostatic testing”. And Kiefner and Maxey, in their paper, don’t say that hydrostatic testing is never advisable. At Adobe page 9 the say:

*“First and foremost, as has already been mentioned, the use of an appropriate in-line inspection tool is always to be preferred to hydrostatic testing if there is sufficient confidence in the ability of the tool to find the defects of significance. Most of the pipe in a pipeline is usually sound. Therefore, it makes sense to use a technique that will find the critical defects and allow their repair as opposed to testing the whole pipeline when it is not necessary. The industry now has access to highly reliable tools for dealing with corrosion-caused metal loss, and tools are evolving rapidly to detect and characterize cracks. As has been noted, some uses of these tools have already proven their value and, in those cases, their use in lieu of hydrostatic testing makes good sense.”*

5237. And further, the authors say:

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*“There are still certain existing pipelines for which hydrostatic testing remains the best (in some cases the only) means to revalidate their serviceability.”*

5238. So having cited this paper in response to the Accufacts proposal, Enbridge then submits in argument the following:

*“Enbridge expects that the Panel will have noted that there is not a single mention of the Kiefner and Maxey paper in the Accufacts Report.” [Transcript Volume 1, paragraph 362]*

5239. And OPLA, in turn, expects that the Panel will have noted that there is not a single mention of the NTSB report or the Marshall, Michigan rupture in the Kiefner and Maxey paper, or of the paper cited by the NTSB in its report called “Report on Achieving Maximum Crack Remediation Effect from Optimized Hydrotesting” which was prepared by the University of Alberta for PHMSA. [C21-3-6, adobe page 17]

5240. And the reason, of course, is that the Kiefner and Maxey paper is from the year 2000, which is not mentioned by Enbridge in its reference to the paper and which far pre-dates what Accufacts says were flawed ILI analysis by Enbridge in and around 2005, the same deficiencies that contributed to the Michigan rupture.

5241. There was hydrostatic testing done on Line 9 -- sorry, Line 6B required by PHMSA. Hydrostatic testing was required on a 13-mile stretch of the line. And there are two references; the first is the Enbridge Line 6B integrity plan -- you don't need to bring these up, but for the record, Exhibit C21-9-11, at Adobe page 6, and also the NTSB report itself at C21-3-5, at Adobe page 80. PHMSA, the regulator in the U.S., would not allow any restart plan that did not include hydrostatic retesting.

5242. In the NTSB report, again Exhibit C21-3-5, at Adobe page 49, there's a discussion of stress, corrosion, cracking, and the report says:

*“About 39 percent of the Enbridge pipeline system is considered to have susceptibility to [stress, corrosion, cracking]...”*

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5243. And the evidence in this proceeding and last year both suggest that Line 9 has susceptibility to stress, corrosion cracking.

*“...based on the Canadian Energy Pipeline Association (CEPA) 1997 standard on SCC. About 35 percent of the total pipeline system has high susceptibility to SCC.”*

5244. And the report further says:

*“CEPA’s recommended SCC mitigation approach included hydrostatic retesting, in-line inspection if appropriate tools were available, extensive pipe replacement, and recoating.”*

5245. And further at Adobe page 50, in the report, the National Transportation Safety Board reports that:

*“Enbridge told NTSB investigators that, when the right technology and processes are implemented, in-line inspection has been shown to be more effective than hydrostatic testing at maintaining a reliable pipeline. At the time of the accident, Enbridge had not performed hydrostatic pressure testing on Line 6B since the time of its construction. Enbridge stated it preferred to assess line integrity using in-line inspection tools.”*

5246. There is reason here, in this current application, as set out in the Accufacts report, to move beyond Enbridge's preference, and to require hydrostatic testing of Line 9 before it is put into service for this project, and OPLA is requesting that as a condition of approval.

5247. The balance of my submissions, if I'm correct, are new additional conditions that OPLA would propose for the project. So additions in -- conditions in addition to those already proposed by the Board. And the first one deals with financial assurances.

5248. Enbridge addressed this idea or this concept in its argument, *[Transcript, Volume 1, paragraphs 445 et ff.]* by suggesting that a condition requiring financial assurances would be unprecedented and unnecessary.

5249. Enbridge is a well-capitalized company for more than 60 years and if there were a spill from Line 9, Enbridge would be in a position to fulfil its

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obligations. And Enbridge is a big company, but big companies, bigger than Enbridge, and older than Enbridge, have failed in very recent memory.

5250. OPLA and its landowner members are looking for as much protection as possible, and given the information we now have about Enbridge and the level of insurance coverage that it has for its entire pipeline system, OPLA submits that the Board should impose a condition requiring Enbridge to provide additional financial assurance that is specific to and reserved for Line 9. Information about the liability insurance carried by Enbridge is found at paragraph 18 in OPLA's written evidence statement, Exhibit C21-7-2. *[Adobe page 4]* The information is taken from Enbridge's financial statements.

5251. In 2010, Enbridge had comprehensive insurance coverage for its entire system in the amount of \$650 million. The cost associated with the Marshall, Michigan rupture, as of June 30<sup>th</sup>, 2013, was more than \$1 billion, and Enbridge reported that only 547 million of that was actually covered by its insurance.

5252. So, even if we assume that the costs of Michigan won't go any higher than they were at June 30<sup>th</sup>, 2013, only about half of that cost was covered by the insurance that Enbridge has in place for its entire system.

5253. And the \$547 million of coverage that was used for the Marshall, Michigan rupture was not available to cover other insurance claims that might have arisen on Enbridge's pipeline system. And I'm sure the Board is familiar with the ISH Energy complaint that's currently before the Board in connection with that very issue related with contamination from the Norman Wells pipeline, and I understand that that complaint is still pending.

5254. So what Enbridge's experience in Marshall, Michigan shows is that a major disaster makes resources and insurance coverage unavailable for the rest of Enbridge's system. Enbridge may have \$685 million U.S. in insurance coverage for 2013, according to its financial statements, but there is nothing guaranteed for Line 9.

5255. OPLA requests that the Board ensure that there is coverage, either through insurance or a set-aside fund, specifically earmarked for Line 9. OPLA is supportive of the proposed Condition 25(c) put forward by the City of Toronto in argument yesterday and repeated today, I believe, by the Province of Ontario. There has to be an amount that's reserved for Line 9.

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5256. Along the same lines, OPLA is proposing that as a condition of approval of this project, Enbridge indemnify its Line 9 landowners from all liability arising as the result of the operation of its Line 9. The province this morning made reference to section 75 of the *National Energy Board Act* where it's required that companies shall do as little damage as possible and make full compensation for all damage that results from the company's operations. And as you know, I'm sure, section 86 of the *National Energy Board Act* also requires that all easement agreements for pipelines contain an indemnity.

5257. Section 86(2)(d) says that all land acquisition agreements must contain:

*"Indemnification from all liabilities, claims, suits and actions arising out of the operations of the company other than liabilities, damages, claims, suits and actions resulting from: (i) in the Province of Quebec, the gross or intentional fault of the owner of the lands, and (ii) in any other province, the gross negligence or wilful misconduct of the owner of the lands."*

5258. So there's a requirement in the Act that all easement agreements contain an indemnity, but that requirement didn't come into effect until March 1<sup>st</sup>, 1983. So while there could possibly be a few exceptions in areas where Line 9 -- the Line 9 pipe may have been moved since 1983, most, if not all of the landowners along Line 9 have no indemnity from Enbridge. They have easement agreements that were made before 1983 or they have no agreement in cases where their land was expropriated.

5259. And the forms of agreements or right of entry orders -- we don't need to go to the documents, but they're in the record of this proceeding at Exhibits B19-13 through B19-17. Line 9 landowners are at risk of liability to third parties for Enbridge's operations on their lands. Contamination is a prime example. If an Enbridge pipeline leaks, and the contamination flows from one property to another, the landowner is at risk of being drawn into civil and regulatory proceedings.

5260. Enbridge acknowledges that this project will increase risk from spills and ruptures on Line 9. It's time for the Board to give Line 9 landowners the same indemnification that landowners with new pipelines enjoy. It seems counter-intuitive that landowners with Line 9, built in the mid-1970s with polyethylene tape wrap, susceptible to stress corrosion, cracking, those

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landowners don't have the same protection from liability as landowners with brand new pipelines.

5261. The protection of an indemnity is warranted and it's deserved by these landowners and it's time for the Board to grant that protection by making indemnification a condition of approval of this project.

5262. Next, I'd like to talk about pinhole leaks and the prevention of pinhole leaks. Earlier in my submissions, I made reference to the Norman Wells leaks. There was a pinhole leak in 2011, and four more leaks in the spring of 2013.

5263. If we could have up on the screen Exhibit C21-9-9, at Adobe page 30, and scroll down to the bottom.

5264. OPLA landowners are concerned about the possibility of pinhole leaks and the image on the screen before you is from Enbridge's report on its Norman Wells spill in 2011 and there is an image of the pinhole from which the spill came out. And it was 1,600 barrels of oil came out of a pinhole like that one on the screen.

5265. In response to OPLA's Information Request 1.79 parts (d) and (e), Enbridge advised that:

*"...there are no ILI tools available that can accurately detect pinhole corrosion." [Exhibit B19-1, adobe page 94]*

5266. And further:

*"All commercially available metal loss ILI tools have limitations resulting in uncertainties in characterizing pinhole corrosion."*

5267. There may be no locations -- there may be no locations along Line 9 that are as remote as the locations along the Norman Wells pipeline. But with the limitations of inline inspection, there is risk that a pinhole leak could release a significant amount of oil along Line 9 before it would be discovered.

5268. OPLA questions whether periodic fly-overs are enough protection. And this was addressed yesterday in argument by Mr. Anderson for DurhamCLEAR. He referenced Table 4.3, Exhibit C12-6-6. And you have his

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submissions on that, listing a number of potential leak detection systems.

5269. OPLA joins in DurhamCLEAR's proposal for a condition requiring the implementation of additional leak detection measures aimed at preventing small leaks like pinhole leaks.
5270. At a minimum, OPLA submits that the Board should impose the same sort of condition on Line 9 in this project, as the Board actually imposed on Enbridge in a safety order related to the Norman Wells pipeline. And that Order is AO-002-SO-E102-002-2011. And in that amended safety order at Condition 7, the Board ordered Enbridge to:
- “...provide an assessment of leak detection methodologies including but not limited to, walking the line, chemical traces, bore hole surveys or aerial sensors, to verify whether any locations with leaks and contaminated soil exist. The assessment shall include a tabulated summary comparing the effectiveness, safety considerations and timeline for the implementation of the various technologies. Along with this assessment, Enbridge shall select the most appropriate leak detection methodology and submit a plan and schedule detailing when and how it will implement the selected leak detection methodology [or methodologies].”*
5271. OPLA raised concerns about pinhole leaks as far back as the first Line 9 reversal hearing in 1997. OPLA raised the concern again in the Line 9A hearing last year. OPLA is now aware of the condition the Board has imposed on Enbridge on the Norman Wells pipeline. And OPLA landowners want the same level of protection on Line 9.
5272. The last area I'll deal with are -- is the area of integrity digs and conditions that OPLA request that the Board impose with respect to Enbridge's operations, in particular integrity digs.
5273. Integrity digs are now a part of life for landowners along Line 9. And landowner experience, as described in OPLA's written evidence, is varied, it's not consistent. Some is positive and much is negative.
5274. Enbridge has an Investigative Dig Process document in place and that

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- is in OPLA's written evidence at Exhibit C21-8-1. But landowners like those who provided written statements that I've cited earlier [C21-8-2, 3 and 4] are nevertheless facing significant problems with digs on their property.
5275. In OPLA's view, there's a lack of oversight in this area and the Board needs to be more involved in this aspect of pipeline operations.
5276. Yesterday, you heard argument from Ms. Ferguson, and in her written evidence she included two tables that she had prepared. Those are Exhibits C49-4-35 and C49-4-36. Those are charts setting out information gleaned from Enbridge's notifications to the Board about integrity digs since 2005.
5277. What I didn't hear Ms. Ferguson mention in argument, is that her charts contain only a fraction of the digs that have and are taking place. Enbridge files notifications with the Board for some of its digs, but not all of its digs. Because the Board's current Operations and Maintenance Guidelines only require notification, which is made public, in certain circumstances.
5278. Notification is required where there are unresolved third-party concerns; where new permanent land rights are required; where there is exposure of a pipe within 200 metres of a residence or an institution like a school where more than 50 people routinely congregate; where there is replacement of more than 100 metres of pipe; where there is to be pressure testing by any means other than hydrostatic testing; or where there is ground disturbance within 30 metres of a wetland or water body.
5279. The requirement to notify the Board where there are unresolved third-party concerns, landowner concerns for example, is a new requirement brought in in 2012. It wasn't there in the previous 2005 guidelines.
5280. Where such an unresolved concern exists, Enbridge must notify the Board at least 21 business days before a dig. But according to the Investigative Dig Process, a landowner is contacted -- a landowner is only contacted a minimum of 7 days before a dig.
5281. So unless the landowner is notified and given details of the work to be done more than 21 business days before work commences, and raises the concerns with Enbridge more than the 21 days before work commences, then the Board isn't likely going to hear about any concerns that the landowner have -- or has that arise after that time.

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5282. No notification would be filed, and in OPLA's view, there's a lack of Board oversight there. There is no requirement in the guidance for Enbridge or any other company, to notify the Board where landowner concerns arise after the work has commenced or even after the original notice is sent, if notification was filed for some other reason.
5283. There is in the guidance a public consultation requirement that is ongoing. But documentation is only provided to the Board when requested by the Board. So currently, the Board isn't likely to hear about third-party concerns, landowner concerns about integrity dig processes, and equally as important, other landowners aren't going to hear about those concerns. Landowners need information to make informed decisions in dealing with Enbridge and its operations on their properties.
5284. In OPLA's submission, the Board needs to fix the Operations and Maintenance Guidance to fill the gap that is there. But until that happens, it should include a condition for Line 9 requiring Enbridge to provide public notice of all integrity digs on Line 9, and to notify the Board and the public of all third-party concerns that arise in connection with the dig and how those concerns are resolved, if they are resolved.
5285. The Board should also include a condition requiring Enbridge to provide public notification of all contamination discovered along Line 9, and the outcome of the investigation of the contamination. Landowners need to know what to expect if contamination is discovered on their properties.
5286. The Board should also include a condition that Enbridge provide to all landowners along Line 9 a copy of its investigative dig process document, including any updated version as it becomes available so that landowners know what is coming. They may not have had an integrity dig on their property yet, but at the rate that digs are being done now, they may very well be having one soon.
5287. And finally, OPLA supports the operational reporting requirements proposed this morning by the Province of Ontario, the annual reporting, and agrees that that reporting should be sent to all Line 9 landowners on an ongoing basis.
5288. Those are the submissions of OPLA, and unless you have any questions, thank you for this opportunity.

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5289.           **THE CHAIRPERSON:** Give us a few moments.

--- (A short pause/Courte pause)

5290.           **THE CHAIRPERSON:** As usual, Mr. Goudy, you're always very thorough.

5291.           Well, the only question I would have, it's mostly for more of a better understanding of the -- I had a question about the digs, but then you want additional -- you know -- condition to make sure that we have a good program.

5292.           Well, maybe let's talk about the dig. So the latest condition that you propose, in your view, should solve the issue of being good neighbour between landowners and Enbridge or is there more that you would want to share with us?

5293.           **MR. GOUDY:** Well, I think there's always much more that can be done and I'm not sure -- I think this -- what OPLA is proposing here is maybe a first step in introducing some Board oversight into the integrity dig process.

5294.           **THE CHAIRPERSON:** Yes.

5295.           **MR. GOUDY:** There -- again, I'd refer you to the witness statements, the landowner statements that have been filed. And there are certainly problems arising between landowners and Enbridge in the context of these digs.

5296.           And there are some 600 digs this year. And in the future, I think we can expect that on all pipelines, there are going to be an increasing number of digs forever into the future.

5297.           It's an important issue, and at present, it's really between the landowner and the company and the Board isn't involved, save for this notification requirement, which, as I hope I've demonstrated, there are holes in it.

5298.           And it's not -- it seems clear that the intention was to make the Board aware of unresolved third-party concerns, but it's not working. That's not how it operates. So I think it's a first step. And then to the extent that further steps are needed on the part of the Board, I think that those will come out of the Board's increased involvement in that process, increased awareness of that process.

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5299.           **THE CHAIRPERSON:** I also recall you said that in some instances things go well with landowners, some instances it doesn't. Do you have a sense whether when it goes well or it doesn't go well, if there's a common thread or is it just different people?
5300.           **MR. GOUDY:** There's just so many variables. A dig is much like the construction of a new pipeline, but on a smaller scale. So even simply the weather can make a huge difference as to how a dig proceeds, whether it gets done within two weeks or whether it gets done within two years. There are so many variables that affect how positive the experience is for a landowner or how negative.
5301.           **THE CHAIRPERSON:** I understand. If it's stretching, it's an impediment for farmers to do their work. So that's understood.
5302.           The other point I wanted to maybe explore a bit with you is this -- what you would like is to have the engineering assessment being available and shared with people.
5303.           **MR. GOUDY:** Yes.
5304.           **THE CHAIRPERSON:** So -- and I understand the request, but now I would like to hear from you, what would you do with the assessment? Would you hire your own consultant or -- you know what I mean, because those are technical report, and ---
5305.           **MR. GOUDY:** That's right. I think first of all, there's a value simply in the disclosure of the information and the availability of the information for landowners, but for the general public to have access to the information, to be able to analyze the information or seek the assistance of experts in analyzing the information.
5306.           There's a benefit simply in having transparency, whether or not the general public has the ability to analyze that. But OPLA also concurs with the request made by the province earlier that there be an independent third-party review of the engineering assessment.
5307.           And I recall, Madam Chair, your question about whether or not that might be duplicative if the Board is fulfilling that role, but I can assure you that

- from OPLA's perspective, perhaps the Board is fulfilling that role, but we can't see it.
5308. We have, for instance with Line 9A decision, there is a summary statement, more or less, that the Board is -- finds that Enbridge's engineering assessment was appropriate. Maybe that's based on a full assessment and a full analysis and a critical review of the engineering assessment, but we don't have that.
5309. And it gets back to this transparency issue. Perhaps it is the Board's place or perhaps the Board can fill that role of a third-party -- independent third-party review of the engineering assessment but we have to have that review or else there can't be any confidence that the review has been done.
5310. **THE CHAIRPERSON:** Okay. So thank you very much, you were clear and we thank you for your participation in many of our processes.
5311. **MR. GOUDY:** Thank you.
5312. **THE CHAIRPERSON:** So this would be a good time for a break and we'll be -- we'll reconvene at 3:30. And Mr. ---
5313. **MR. WATTON:** One of the things we may discuss on the break is who our next presenter is going to be.
5314. **THE CHAIRPERSON:** Okay. So stay tuned.
- Upon recessing at 3:11 p.m./L'audience est suspendue à 15h11  
--- Upon resuming at 3:35 p.m./L'audience est reprise à 15h35
5315. **THE CHAIRPERSON:** Welcome back.
5316. Now we'll have Ms. Amanda Lickers from Rising Tide Toronto.
5317. **MS. SAUNDERS:** There we go. My name is Sakura Saunders and as I explained to the NEB staff earlier today, Amanda was given less than 24 hours notice that she would have to appear today. In the original schedule, she was about three from the end and of a hearing that was going on until Saturday, she never assumed that she would be presenting on Thursday.

5318. She does live in Peterborough and is not able to come today. I am from Rising Tide Toronto and I have to say that she has been preparing her two and a half hour presentation for months now. She submitted a lot of written evidence that I am not able to speak to with as high a degree of confidence and competence, and you know, would like to be able to speak tomorrow.
5319. **THE CHAIRPERSON:** Well, I must say that we were clear in our procedural update before that parties who intend to provide an oral final argument were responsible for monitoring the proceeding and the progress and appearing when they were called or else they risk losing the opportunity.
5320. And yesterday, we mentioned that Rising Tide was going to be called up today. So lots of parties, you know, were here in time, and ahead of their time to make sure that they would, you know, they would be coming up when called.
5321. So the only thing that we are left with is that we'll start tomorrow morning with Sarah Harmer, and if we have time at the end of the day, after Mr. John Quarterly, then we may call Ms. Lickers to appear.
5322. **MS. SAUNDERS:** What about Saturday?
5323. **THE CHAIRPERSON:** Well, we're trying to -- when we did the procedural update we feel like we will -- the process will go -- you know, we're trying to be as efficient as possible, and people are here, and we'll see what we can do tomorrow.
5324. **MS. SAUNDERS:** So -- sorry, I didn't realize I was responsible for turning it on or off, I haven't been touching it.
5325. So, you know, just to clarify, she will only be able to go on if there is time at the end of the day tomorrow? There is no chance of her being able to speak on Saturday?
5326. **THE CHAIRPERSON:** No, it's tomorrow after Mr. John Quarterly, if we have time.
5327. **MS. SAUNDERS:** And then would Enbridge be presenting on Saturday?
5328. **THE CHAIRPERSON:** If we finish early Friday, they can go

Friday.

5329. **MS. SAUNDERS:** Okay, so it ---

5330. **THE CHAIRPERSON:** The goal is to, you know, to proceed swiftly so that people, you know, have -- don't have to spend more time than they need to during the proceeding.

5331. So tomorrow, she can come, and then after Mr. John Quarterly, we'll hear from her if we have time.

5332. **MS. SAUNDERS:** Okay, thank you.

5333. **THE CHAIRPERSON:** Thank you.

5334. **MS. SAUNDERS:** I suspect that there should be enough time as ---

5335. **THE CHAIRPERSON:** Yes.

5336. **MS. SAUNDERS:** --- long as everything goes according to plan, there seems like more than enough time to speak tomorrow.

5337. **THE CHAIRPERSON:** So we'll see her tomorrow.

5338. **MS. SAUNDERS:** Okay.

5339. **THE CHAIRPERSON:** Thank you.

5340. So tomorrow morning we'll start with Ms. Sarah Harmer, then Council of Canadians, Équiterre Coalition, Carrie Lester, John Quarterly, and probably Rising Tide.

5341. **MR. WATTON:** And Marilyn Eriksen, if she's feeling better.

5342. **THE CHAIRPERSON:** Yes, Ms. Eriksen, if she's feeling better.

5343. So thank you very much. We'll see you at 9 o'clock tomorrow.

--- Upon adjourning at 3:39 p.m./L'audience est ajournée à 15h39