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31 March 2015

Mr. Guy Jarvis
President, Liquids Pipelines
Accountable Office under the NEB Act
Enbridge Pipelines Inc.
3000 Fifth Avenue Place
425 -1st Street S.W.
Calgary, AB T2P 3L8
Facsimile [REDACTED]

Dear Mr. Jarvis:

**National Energy Board – Overarching Comments With Respect To
Enbridge Pipelines Inc. (Enbridge) and its Board-Regulated Subsidiaries – *National
Energy Board Onshore Pipeline Regulations, (OPR) Audit Report Findings.***

On 31 March 2015, the National Energy Board (Board) released six (6) Final Audit Reports with respect to concurrent audits conducted on Enbridge's management system and the following management or protection programs:

- Safety Management Program;
- Integrity Management Program;
- Emergency Management Program;
- Environmental Protection Program;
- Third Party Crossings Program; and
- Public Awareness Program.

The Board has conducted and developed each audit report independently to ensure that a comprehensive assessment of Enbridge's management system and each program was made. The Board has reviewed and analyzed all of the findings it has made in its Final Audit Reports and has noted opportunities for Enbridge to improve its management practices, which in the Board's view would lead to better compliance, better environmental and safety outcomes and, ultimately, a more robust safety culture.

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It is the Board's overarching view that, with respect to the audit findings, Enbridge's management needs to ensure that the company fully shifts away from reliance on pre-existing, program level procedures and practices, and moves to a compliant management system based approach that among other things: comprehensively identifies and manages hazards and risks on an ongoing basis; confirms the validity of Enbridge's practices on an ongoing basis; and reflects clear management direction and oversight.

Enbridge has indicated that in its view, "typically, statutory interpretation (particularly where the statute or regulation may be penal in nature as a result of the Administrative Monetary Penalty Regulations) requires that the words of an Act should be read in their entire context in their grammatical and ordinary sense, harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament." The Board concurs with Enbridge in this regard. The Board's view is that a company must integrate a holistic interpretation of the OPR requirements within its management system and programs. The Board notes that its Final Audit Reports reflect this practice especially as the required management system and programs being evaluated must be "systematic, explicit and comprehensive" as per the OPR.

The Board has made a common determination in all of its Final Audit Reports that the majority of the Non-Compliant findings made reflect Enbridge's stage in developing and applying its management system and does not necessarily reflect the lack of technical management activities being undertaken to ensure the safety of people and the pipeline, and the protection of the environment.

Notwithstanding, it is the Board's view that Enbridge has the opportunity to significantly enhance its approach to safety performance and safety culture by fully implementing a management systems approach and addressing the points noted in this letter.

The following are specific opportunities for improved management practices, which are reflected in the common Non-Compliant findings made by the Board in its audits.

- Identification, review and compilation of compliance requirements in a more detailed and basic manner that directly correspond to the Board's regulatory requirements.
- Establishment and implementation of processes for identifying hazards and potential hazards, evaluating the associated risks and developing controls that directly correspond to the Board's regulatory requirements.
- Establishment of formal practices to validate Enbridge's existing management and protection program practices and procedures against the compliant management system process requirements. While this should apply to all programs equally, it is especially important with respect to the Emergency Management program.
- Establishment of explicit policies, goals, objectives, targets and performance measures specific to each required program.
- Establishment and implementation of effective management review processes that include requirements to challenge the validity of Enbridge's existing practices and interpretations of compliance requirements.
- Establishment of oversight practices to ensure that the audits required by the Board are undertaken as prescribed.

The Board also wishes to provide clarity regarding two issues that have arisen during the audit to aid Enbridge during the development of its management system and programs and any Corrective Action Plans developed to address the Board's Non-Compliant findings.

1. Paragraphs 6.5(1)(c), (d) and (e)) of the OPR set out process requirements for: identifying and analyzing all hazards and potential hazards; evaluating and managing the risks associated with the identified hazards; and establishing and maintaining an inventory of hazards and potential hazards.

It is the Board's view that the primary outcome of the processes referenced, and the OPR in general, is to ensure that all of the hazards and potential hazards have been identified and that the inherent risks associated with each hazard are known, evaluated and controlled. In addressing the Board's view with respect to these OPR requirements, a company must apply the process for the evaluation and management of risk to the identified hazards without considering existing controls in order to ensure that the inherent risk of the hazard is identified. This allows a company to appropriately manage, communicate and monitor the potential likelihoods and consequences associated with hazards.

It is the view of the Board that the processes developed by a company should explicitly meet the OPR requirements in name, intent and by process design in order to demonstrate compliance.

The Board notes that compliant management systems and programs will include requirements to subsequently re-evaluate the risks, taking into consideration any controls applied to the hazards, to demonstrate the effectiveness of the controls and continual improvement.

2. During the audit Enbridge indicated that it believes "*a reasonable interpretation of [OPR sub-sections 6.5(1)(c), (e) and (f)] is to ensure operating companies identify, analyze, and evaluate hazards and potential hazards in order to: continuously improve existing controls; effectively allocate and use resources for risk treatment; and enhance and ensure health and safety performance, as well as environmental protection*".

Based on the information provided in item 1, above, the Board only partially agrees with Enbridge in that the processes, when appropriately designed and incorporated into a compliant management system and program, should cause the outcomes described by Enbridge. It is the Board's view, however, that these are not the primary or only outcomes that are to be ensured by a company. As noted above, the primary outcome of the processes in question is to ensure that all of the hazards and potential hazards have been identified and that the risks associated with each hazard are known, evaluated, and controlled.

If you require any further information or clarification, please contact Ken Colosimo, Lead Auditor, Operations Business Unit at 403-292-4926 or toll-free at 1-800-899-1265.

Yours truly,

Original signed by

Sheri Young
Secretary of the Board

Attachment – OPR Audit Report documents