

NOTES ON THE NEB'S NORTHERN GATEWAY REPORT

(Extract from my draft analysis of the National Energy Board (NEB) report released on December 18, 2013, recommending approval of the Northern Gateway pipeline. These notes were originally written in April 2015, and were revised on April 12, 2016)

On December 18, 2013, Canada's National Energy Board (NEB) recommended that construction of Enbridge's Northern Gateway pipeline (also known as the Enbridge pipeline) be allowed to proceed. At the start of its lengthy two-volume decision, the panel explained its approach.

This volume of our report, *Connections*, is about connections and linkages ... between the economy and the environment ...

Our task was to recognize those connections. We weighed them and balanced them to answer the fundamental question: would Canada and Canadians be better off or worse off if the project goes ahead?"

Report of the Joint Review Panel for the Enbridge Northern Gateway Project, Volume 1, Connections, p.1 (emphasis added)

The task of the panel, in its own words, was to decide whether Canada and Canadians would be "better off or worse off if the project goes ahead". The panel identified various economic benefits and environmental negatives. The environmental negatives it identified relate mainly to the risk of oil spills in the interior of British Columbia and along the coast of the Pacific Ocean.

If it is ever built the proposed pipeline will transport 525,000 barrels of diluted bitumen a day to the town of Kitimat, situated on the B.C. coast at the head of a tidal inlet that leads to the Pacific. The pipeline could be in use for 50 years, says the panel.

We need to ask what "connections and linkages" the panel was prepared to recognize. The positive linkage they did recognize and welcome is that building the Enbridge pipeline will expand the industry's capacity to export bitumen, and will therefore allow the industry to continue to increase bitumen production.

One important "linkage" the NEB panel was unwilling to recognize, or even discuss, is that expanding tar sands production will result in growing levels of CO₂ emissions because of the energy-intensive methods of extraction. The panel refused to allow any

witnesses to provide evidence about the quantity or consequences of CO₂ emissions from expanding bitumen production in Alberta.

The panel gave this explanation for its decision to exclude all evidence about the problem of carbon emissions:

Many people said the project would lead to increased greenhouse gas emissions and other environmental ... effects from oil sands development. We did not consider that there was a sufficiently direct connection between the project and any particular existing or proposed oil sands development ... to warrant consideration of the effects of these activities.

Connections, Volume 1, p. 17 (emphasis added)

The reasons given for the NEB's refusal to consider CO₂ emissions

When the NEB explained its reasons for refusing to consider the subject of CO₂ emissions from expanding oil sands production, it did not deny that CO₂ emissions are a serious environmental problem or that the problem is urgent.

The panel simply refused to look to see if there is a problem. It declared that whether the approval of a new pipeline would cause increased greenhouse gas emissions “did not warrant consideration”.

The key part of the decision in which the NEB confirms its refusal to address these subjects is found in section 2.2.2 under the heading: “What was outside our mandate?”

During our hearings and in written submissions many people urged us to include assessments of matters that were beyond the scope of the project and outside our mandate set out in the Joint Review Panel Agreement. These included both “upstream” oil development effects and “downstream” refining and the use of the products shipped on the pipelines and tankers.

Connections, Volume 1, p. i7

“Upstream oil development effects” includes the environmental consequences of the bitumen production process in Alberta, including CO₂ emissions.

The panel declared that any inquiry into CO₂ emissions would be to investigate something that was “beyond the scope” of the pipeline project.

In deciding which environmental consequences should be counted – and which would not be counted – the dividing line adopted by the NEB is the notion of “direct connection”. The panel repeatedly states that there is no direct connection between this pipeline and *any particular oil sands project*.

The town of Bruderheim, located just north of Edmonton, is the planned eastern end of the Enbridge pipeline – the trans-shipment point – where shipments of diluted bitumen will start on their way to British Columbia and the Pacific coast. Bitumen will be collected by rail from the extraction sites that are situated about 400 kilometres to the north in Alberta, in the Athabasca and the Cold Lake areas, and in the Peace River region. The panel found that there was no “direct connection” between the pipeline station at Bruderheim and any particular oil sands project.

“The Bruderheim Station would not be located near oil sands development and could receive oil from a variety of sources.” (page 17)

The physical distance that separates Bruderheim from active oil sands operations in northern Alberta (there are 50 or 60 of them) is so great, according to the panel, that the pipeline itself cannot be said to have any “direct connection” with operating sites where the bitumen is extracted from the ground.

That logic allowed the panel members to decide that it was outside their “mandate” to look at the impact of increased CO₂ emissions.

Here is another example of the panel’s reasoning:

“Northern Gateway applied only for a transportation project and did not indicate any intention to develop oil sands or other oil production.” (page 17)

The panel relied on the fact that the pipeline owner, Northern Gateway, does not itself plan to “develop oil sands” to support the conclusion that there is no connection between the pipeline and oil sands production activities, or at least no connection that is “direct” enough to require the panel to look at any environmental consequences of what happens at the production sites, when production expands to feed the new pipeline.

But when it came to looking at the *economic benefits* that would flow from building the pipeline, the panel did not hesitate to find an immediate connection between the pipeline and the expected future gains of jobs and expanded bitumen production at the 50 or 60 oil sands production sites, which are scattered all over northern Alberta.

In weighing the economic benefits, the panel did not insist there was any need to show a connection between the pipeline and a *particular* oil sands project where all the jobs, royalties for government, and profits for the companies will be generated.

It is obvious, from reading the NEB decision, that the panel treated the application as an economic development project of national scale. Indeed, the main theme of the entire report is an elaborate process of “weighing” national-level economic benefits (albeit predominantly Alberta-centered), which the panel “balanced” against the negatives. But on the negative side of things, the panel chose to limit the scope of its investigation to the environmental risks of oil spills in B.C. (which it found manageable) and the risk of

harming certain animal species whose habitat is close to the pipeline route through British Columbia.