

Union of BC Municipalities Positions on National Energy Board Modernization

March 30, 2017

Submission to the NEB Modernization
Expert Panel



UBCM Role and Overview

The Union of BC Municipalities represents 100% of local governments in British Columbia, and has advocated for policy and programs that support its membership's needs since 1905. We are a policy-based organization, guided by member positions established through resolutions at our annual convention. UBCM membership presently consists of 161 Municipalities, 28 Regional Districts and 7 First Nations.

UBCM has been actively engaged in supporting members' interests with regards to the National Energy Board through meetings with the NEB, and submission of member resolutions to the NEB and other federal and provincial agencies. Most recently, then-UBCM President Sav Dhaliwal met in April 2015 with NEB Chair and CEO Peter Watson to discuss the National Outreach Initiative¹. UBCM Staff have continued their engagement with regional NEB staff.

While specific local governments in BC (Coquitlam, Langley and Surrey) have identified unique issues of local interest, what follows is a summary of positions expressed through resolutions adopted by UBCM membership as a whole (Attachment 1), addressing the following areas of concern:

- **Opportunities for local government input in decision making processes**, relating to Expert Panel Discussion Papers #4 and 11
- **Environmental Protection, Spill Preparedness and Response**, relating to Expert Panel Discussion Papers #6 and 7
- **Highway Maintenance over Pipelines**, relating to Expert Panel Discussion Paper #12.

¹ <http://www.ubcm.ca/EN/meta/news/news-archive/2015-archive/ubcm-meets-with-national-energy-board.html>

Opportunities for Input in Decision Making Processes

Since 2011, UBCM membership has passed several resolutions highlighting the need for more meaningful consultation of local governments in NEB related processes. In 2011, members endorsed resolution LR6 that requested that any applications to expand the amount of oil transported by pipeline or tanker in British Columbia undergo the highest degree of environmental assessment, and meaningful public consultation that includes *direct engagement with affected municipalities, regional authorities and British Columbia First Nations*.

In 2014, members endorsed resolution LR1, addressing the July 15, 2014 NEB decision to remove protocols from the standard public hearing for a major pipeline which provided opportunities for public review through open meetings, oral hearings and cross-examination. This resolution requested that UBCM oppose the lost opportunities for public review, and that these be reinstated. In conjunction with resolution LR1, membership also endorsed resolution 2014-LR2 that requested the Province to direct the Environmental Assessment Office of the Province of BC to withdraw from an equivalency agreement with the NEB to undertake its own Environmental Assessment process for the Trans Mountain Expansion Project, on the basis that Trans Mountain failed to adequately respond to written information requests by intervenors. Finally, in 2015, membership adopted resolution B28, reiterating the request that the Province withdraw from the equivalency agreement and undertake its own Environmental Assessment process for the Trans Mountain Project.

These resolutions directly address questions identified in two Expert Panel Discussion Papers:

Discussion Paper	Question(s)	Local Government Requests
Discussion Paper #4: Decision-Making Roles on Projects	<p>3. What are your views with respect to the role(s) of other parties in the final decision-making process, such as Indigenous groups, provinces/territories or municipalities?</p> <p>Do you see an enhanced role for some or all of these parties?</p>	BC local governments would like to see an enhanced role in the decision making process, with greater opportunities for input as part of the public review.

Discussion Paper	Question(s)	Local Government Requests
<p>Discussion Paper #11: The Hearing Process</p>	<p>3. What are your views with respect to the basic steps of the public hearing process? What are the areas that can be improved?</p>	<p>BC local governments request a restoration of a full public hearing process, developed in consultation with local governments, First Nations and citizens. This process should include opportunities to cross-examine evidence, articulate concerns and voice opposition to applications.</p> <p>As part of this process, UBCM also seeks greater clarity on:</p> <ul style="list-style-type: none"> • Which applications are being considered, • How local governments and the public can provide input, • How the application fulfills the requirements of the environmental assessment, and • Decisions on applications.

Environmental Protection, Spill Preparedness and Response

UBCM membership has voiced their opposition towards tar sands oils being transported through pipelines across northern BC for loading onto crude oil tankers (2010-B140), and towards associated increases in tanker traffic (2010-B139, 2012-A8, 2015-B29).

In 2014, membership endorsed resolution LR3 which was initiated by Kinder Morgan's response to intervenors in an NEB hearing on July 11, 2014. In their response, Trans Mountain would not provide specific information about response plans or equipment available to deal with a potential diluted bitumen spill. The resolution therefore asked that the NEB compel Trans Mountain to provide site specific consequence analyses, response plans and tactics for sunken and submerged oil to be subject to public review and approval by impacted communities. The resolution also asked that the Province conduct a full assessment of such plans and tactics within the Province of BC.

More broadly, with regards to response to spills, our membership has called for:

- a collaborative approach to spill response where local governments are recognized as active participants, with compensation for local resources used during response and restoration (2015-A4);
- improved government oversight of spill preparedness (resolutions 2012-B122, 2011-B149, 2010-B87, 2008-B32 and 2007-B173); and,
- requirements that the responsible person protect and restore the environment following a spill (2007-B173).

UBCM policy as detailed above addresses the following questions posed in Expert Panel Discussion Papers:

Discussion Paper	Question(s)	Local Government Requests
Discussion Paper #6: Safety and Environmental Protection	1. What are your views with respect to the existing compliance and enforcement tools available to the NEB for safety and environmental protection?	<p>UBCM membership has voiced opposition towards further pipeline development for the transport of oil across northern BC to the BC Coast.</p> <p>Spill preparedness and response plans should incorporate:</p> <ul style="list-style-type: none"> • plans for sunken and submerged oil that are approved by impacted communities, • collaboration with and resourcing for local governments, • improved government oversight, and • requirements to restore the environment following a spill.
Discussion Paper #7: Emergency Prevention, Preparedness and Response: Tools and Requirements	1. In your opinion, are the existing emergency preparedness and response tools and requirements sufficient? If not, what additional tools or requirements are needed?	

Highway Maintenance over Pipelines

In 2015, UBCM membership endorsed resolution B76 highlighting uncertainty and confusion regarding the application of regulations relating to highway maintenance over pipelines. This resolution requested that regulations under the *National Energy Board Act* be revised to balance public safety and the continuing need for municipalities to undertake routine highway maintenance without having to provide notice or obtain a permit from the pipeline owner or operator.

This resolution addresses the following question posed in Expert Panel Discussion Paper #12:

Discussion Paper	Question(s)	Local Government Requests
Discussion Paper #12: Land Acquisition and Compensation	1. How has having a pipeline or powerline on your land affected how you use your land?	BC local governments would like to see a simplified process that enables them to undertake routine highway maintenance over pipelines without onerous approvals.

Conclusion

The Union of BC Municipalities welcomes the opportunity to provide input to the Expert Panel as part of the consultations on National Energy Board Modernization. Our submission addresses questions raised in 5 of the Expert Panel Discussion Papers, and highlights requests by our membership for:

- Enhanced opportunities for local government input in decision making processes, including a restoration of the full public hearing process and greater clarity on the status of applications;
- Spill preparedness and response that incorporates plans for sunken and submerged oil, collaboration and resourcing for local governments, and requirements for environmental restoration; and,
- A simplified process to better enable local governments to undertake routine maintenance over pipelines.

UBCM represents 100% of local governments in British Columbia, and our submission reflects positions supported by our membership as a whole. We would also like to draw your attention to submissions made by individual local governments in BC, including Coquitlam, Langley and Surrey. These detailed submissions outline experiences and concerns specific to those local governments, including important local issues that may not be addressed directly in our submission. We would also point to the submission by the Federation of Canadian Municipalities which provides additional detail on local government concerns, many of which may also apply to BC local governments.

UBCM would welcome further opportunities for engagement with the NEB on local government involvement in NEB decision-making processes and other areas of interest to BC local governments. Inquiries regarding this submission may be directed to either Marie Crawford or Josh van Loon, as detailed below.

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