



9 September 2016

National Energy Board  
517 Tenth Avenue SW  
Calgary, Alberta T2R 0A8

Attention: Sheri Young  
Secretary of the Board

**Re: Hearing Order OH-002-2016  
File Of-Fac-Oil-E266-2014-01 02  
Energy East Project, Asset Transfer and Eastern Mainline Project (the Projects)  
Letter concerning Applicants' section 58 exemption application for detailed  
route process for the Saint John tank terminals and related facilities**

The Applicants have stated in [Volume 1, Section 2.2.5](#) of the Consolidated Application that a section 58 exemption from the detailed route process for the Saint John tank terminals and related facilities is being sought. Nature Canada opposes this application for a section 58 exemption on the grounds that the detailed route processes provide important procedural entitlements for owners of lands that may be adversely affected by the project. Further, a number of intervenors expressed concerns at the Saint John panel sessions about the adverse impacts of the Saint John tank terminals and related facilities on their properties.

In Volume 1, Section 2.2.5, the Applicants state that the "requisite land rights are in place" for the lands on which the Saint John tank terminals and related facilities will be located; however, the detailed route process provided for in sections 33 and 34 of the *National Energy Board Act* ("NEB Act") extends procedural entitlements to any person who anticipates that their lands may be adversely affected by the project in addition to owners of land that may be acquired.

At the Saint John Panel Sessions, a number of intervenors from the Anthony's Cove/ Red Head community expressed concerns about the Saint John tank terminals.

Section 58 of the NEB Act affords the Board the authority to exempt tanks and related facilities from the provisions of section 33 of the Act. Section 33(1) requires proponents to prepare and submit a plan, profile and book of reference of the pipeline to the Board once the Board has issued a certificate. Section 34(3) provides an opportunity for owners of lands to be acquired to file a statement of opposition with the Board and section 34(4) provides an opportunity for owners of lands not to be acquired but which may be adversely affected by the detailed route to file a statement of opposition with the Board.



Section 35 requires that, where the Board receives any statements of opposition in accordance with sections 34(3) or (4), the Board must forthwith order that a public hearing be conducted in the area to address the grounds of opposition at which persons that filed statements of opposition are to be provided an opportunity to make representations to the Board and inspections of the lands to be acquired or affected may be made.

The Applicants' assertion that a section 58 exemption from the detailed route processes for the Saint John tank terminals and related facilities is justified on the basis that the requisite land rights are in place fails to address the procedural entitlements established by sections 34 and 35 of the NEB Act for owners of lands not to be acquired but which may be adversely affected by the detailed route. Therefore, Nature Canada opposes the Applicants' section 58 application for an exemption from the detailed route processes for the Saint John tank terminals and related facilities.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Eleanor Fast", is written over a light blue horizontal line.

Eleanor Fast  
Executive Director