



File OF-Fac-Oil-E266-2014-01 02  
28 June 2017

To: Energy East Pipeline Ltd. and TransCanada PipeLines Limited

**IN THE MATTER OF:**

**Energy East Pipeline Ltd. (EEPL) and TransCanada PipeLines Limited  
(TransCanada)  
Energy East Project and Asset Transfer (Energy East), and Eastern Mainline  
Project (Eastern Mainline)  
Ruling No. 9 – Requests for confidential treatment of information**

**Background**

On 17 December 2015 and 17 May 2016, respectively, TransCanada and EEPL filed requests to have information treated confidentially and not placed on the public record, pursuant to section 16.1 of the *National Energy Board Act* (NEB Act).

On 27 January 2017, the National Energy Board (Board) issued [Ruling No. 1](#), which voided previous decisions approving those requests. The Board indicated that it would consider the requests anew and issue its rulings on the matters at a later time, while keeping the filings confidential in the interim.

**The requests**

On 17 December 2015, TransCanada filed an [amendment](#) to its Eastern Mainline application, within which it requested confidential treatment of information concerning vulnerable and endangered species. It requested such treatment in support of protecting information about the locations of endangered and vulnerable species along the pipeline route, in accordance with the *Sensitive Data Use Licence Agreement* that it entered into with the Ontario Ministry of Natural Resources and Forestry. The information was contained in the following documents:

- Appendix K – Species at Risk Report of the Environmental and Socio-Economic Assessment Amendment (ESA Amendment).
- Table 2 of Appendix I of the Pipeline Environmental Protection Plan (Appendix A of the ESA Amendment).
- Index map from the updated Environmental Alignment Sheets (Appendix C of the ESA Amendment).

.../2

On 24 May 2016, EEPL [requested](#) confidential treatment of the information contained in a coding sheet indicating the locations of certain vulnerable and endangered species of plants and animals along Energy East's Quebec Segment. EEPL requested such treatment in support of protecting this location information, in accordance with the express guidance and objectives of the Centre de données sur le patrimoine naturel du Québec (Centre).

EEPL noted that the Centre provides the type of information included in the coding sheet to a requester only where the request is made for scientific or conservation purposes, and does not allow it to be accessed by the general public. EEPL indicated that it understood this to be a means of preventing disclosure at a level that could unduly facilitate the harvesting of, or disturbance to, vulnerable and endangered species or their habitat.

EEPL indicated that the coding sheet includes and addresses scientific information that has been consistently treated as confidential information, and submitted that the interest in keeping it confidential outweighs the public interest in its disclosure.

### ***Views and decisions of the Board***

Under paragraph 16.1(a) of the NEB Act, the Board may issue such an order if it is satisfied that disclosure could reasonably result in a material loss or gain to a person directly affected by the proceedings, or if disclosure could reasonably be expected to prejudice the person's competitive position. Under paragraph 16.1(b) of the NEB Act, the Board may issue such an order if it is satisfied that the documents constitute financial, commercial, scientific, or technical information that has consistently been treated confidentially, and if the Board considers that the person's interest in confidentiality outweighs the public interest in disclosure. If the Board is satisfied on either basis, it may treat a document confidentially.

In each of EEPL's and TransCanada's cases, the Board is satisfied that the subject information meets the requirements of paragraph 16.1(b) of the NEB Act and that the requested relief is warranted. As a result, the requests are granted and the information will remain confidential.

For any questions, please contact the Board's Process Advisory Team by phone at 403-292-4800 or 1-800-899-1265 (toll-free), or by email at [energyeast.processhelp@neb-one.gc.ca](mailto:energyeast.processhelp@neb-one.gc.ca).

Yours truly,

*Original signed by L. George for*

Sheri Young  
Secretary of the Board

c.c.: All interested parties