

**Appendix 6                      EA Factors Document for Energy East**

**Energy East Pipeline Ltd. and  
TransCanada PipeLines Limited (collectively, the Applicants)**

**Application for the Energy East Project and Asset Transfer (Energy East)**

**Factors and Scope of the Factors for the Environmental Assessment pursuant to the  
*Canadian Environmental Assessment Act, 2012 (CEAA 2012)***

**1. Introduction**

Energy East is a “designated project”<sup>1</sup> under the CEAA 2012’s *Regulations Designating Physical Activities* (Regulations) and is subject to an environmental assessment (EA) under that Act, which the National Energy Board (Board) will undertake as the responsible authority. As described in subsection 4(2) of the CEAA 2012, the Board must exercise its powers under that Act in a manner that protects the environment and human health and applies the precautionary principle.

One of the purposes of the CEAA 2012 is to protect the components of the environment that are within the legislative authority of Parliament from significant adverse environmental effects caused by a designated project.

In the CEAA 2012, “environment” means:

“the components of the Earth, and includes

- (a) land, water and air, including all layers of the atmosphere;
- (b) all organic and inorganic matter and living organisms; and
- (c) the interacting natural systems that include components referred to in paragraphs (a) and (b).”

Another important purpose of the CEAA 2012 is to offer opportunities for meaningful public participation during federal EAs.

**2. Scope of the designated project**

For the purposes of the Board’s CEAA 2012 EA, the designated project comprises the various physical activities described by the Applicants in the Energy East application and subsequent

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<sup>1</sup> “Designated project” is defined in subsection 2(1) of the CEAA 2012.

filings with the Board. It includes any physical activities that are incidental to those designated physical activities set out in the Regulations.

Details on the various components that comprise Energy East, as applied for, can be found in [Volume 1, Section 2](#) (Project Overview) of the Energy East application. The entire project application, as filed, is accessible via the Board's online [public registry](#). The Board provides a high-level overview of the project in [Appendix 1](#) of its cover letter to this document.

### **3. Factors to be considered in the EA**

The Board's CEAA 2012 EA for Energy East will take into account the following factors described in paragraphs 19(1)(a) through (i) of that Act:

- a) the environmental effects<sup>2</sup> of the designated project, including the environmental effects of malfunctions or accidents that may occur in connection with the designated project and any cumulative environmental effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out;
- b) the significance of the effects referred to in paragraph a);
- c) comments from any interested party that are received in accordance with the CEAA 2012;
- d) mitigation measures<sup>3</sup> that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the designated project;
- e) the requirements of the follow-up program in respect of the designated project;
- f) the purpose of the designated project;
- g) alternative means of carrying out the designated project that are technically and economically feasible and the environmental effects of any such alternative means;
- h) any change to the designated project that may be caused by the environment; and
- i) the results of any relevant regional study conducted by a committee established under section 73 or 74 of the CEAA 2012.

Under paragraph 19(1)(j) of the CEAA 2012, the Board also requires the following additional matters to be taken into account:

- Indirect greenhouse gas emissions that could result if the project is constructed, including from incremental upstream oil production and upgrading, incremental downstream refining and end-use, and incremental third-party electricity generation
- The potential environmental and socio-economic effects of changes to marine shipping resulting from the project within Canada's territorial sea

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<sup>2</sup> The environmental effects to be taken into account are outlined in section 5 of the CEAA 2012.

<sup>3</sup> "Mitigation measures" are defined in subsection 2(1) of the CEAA 2012.

#### **4. Scope of the factors to be considered in the EA**

Pursuant to subsection 19(2) of the CEAA 2012, the Board, as the responsible authority, determines the scope of the factors to be taken into account in the EA.

The Board's CEAA 2012 EA will consider the potential effects of the designated project within spatial and temporal boundaries within which the project may potentially interact with, and have an effect on, components of the environment. These boundaries will vary with the issues and factors considered, and will include, but not be limited to:

- construction, operation, and maintenance; foreseeable changes; and site reclamation; as well as any other undertakings proposed by the Applicants or that are likely to be carried out in relation to the physical works proposed by the Applicants, including mitigation and habitat replacement measures;
- seasonal or other natural variations of a population or ecological component;
- any sensitive life cycle phases of species (e.g., wildlife, vegetation) in relation to the timing of project activities;
- the time required for an effect to become evident;
- the area within which a population or ecological component functions; and
- the area affected by the project.

Any works and activities associated with additional modifications or associated with the decommissioning or abandonment phase of the designated project would be subject to a future application under the *National Energy Board Act* and assessed in detail at that time. Therefore, in the Board's current review, such works and activities will be examined in a broad context only.

#### **5. Community knowledge and Indigenous<sup>4</sup> traditional knowledge**

Subsection 19(3) of the CEAA 2012 indicates that the EA of a designated project may take into account community knowledge and Indigenous traditional knowledge.

In its CEAA 2012 EA of the designated project, the Board will consider all relevant community knowledge and Indigenous traditional knowledge put before it during the public hearing, as well as information received on the record with respect to consultation and engagement activities with Indigenous peoples regarding the project. This may include community knowledge and Indigenous traditional knowledge filed by the information holders themselves, or by the Applicants.

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<sup>4</sup> Indigenous peoples include the Indian, Inuit, and Métis peoples of Canada, as defined in section 35 of the *Constitution Act, 1982*.